



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: PA/04243/2018

**THE IMMIGRATION ACTS**

Heard at Field House  
On 5<sup>th</sup> September 2018

Decision & Reasons Promulgated  
On 14<sup>th</sup> September 2018

Before

DEPUTY UPPER TRIBUNAL JUDGE SAINI

Between

A R  
(ANONYMITY DIRECTION MAINTAINED)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

**Representation:**

For the Appellant: Miss S Walker, Counsel  
For the Respondent: Miss J Isherwood, Senior Presenting Officer

**DECISION AND REASONS**

1. The appellant appeals against the decision of First-tier Tribunal Judge Paul promulgated on 11<sup>th</sup> June 2018 dismissing his appeal on the basis of his protection

claim in respect of an imputed political opinion and his human rights. The appellant appealed against that decision and was granted permission to appeal by First-tier Tribunal Judge Grimmett in the following terms:

- “2. The appellant says the Judge considered various documents in isolation and not in the round. The Judge considered the evidence in paragraphs 19 to 24 and did not consider the documents separately from the other evidence but dealt with each part of the evidence in turn.
  3. With regard to ground 2 there was no arguable error in the Judge’s assessment of the events following the appellant’s father’s arrest as the Judge went on to consider at paragraph 19 the alternative position that there may have been extra surveillance and thus did follow the guidance referred to.
  4. Ground 2(16) is arguable as there was a witness statement from a relative to suggest she had been told of raids which the Judge may have overlooked in light of paragraph 24.”
2. I was not provided with a Rule 24 response from the respondent but was given the indication that the appeal was resisted.

#### **Error of Law**

3. At the close of the hearing I reserved my decision which I shall now give. I do find that there is an error of law in the decision such that it should be set aside. My reasons for so finding are as follows.
4. In respect of ground 2, as the grant of permission observes there was a witness statement from a relative that was put before the First-tier Tribunal which stated that there had been raids upon the appellant’s family home following the appellant’s father’s arrest. In respect of the assessment of the appellant’s risk on return to Iran, it was therefore incorrect for the First-tier Tribunal to state that the appellant seemed to be leading “a perfectly ordinary life, and no report was made of continual raids by the police or property searches having been carried out”. In that light there is a material omission in the First-tier Tribunal’s consideration of the evidence before it in respect of whether there were any raids by the police or property searches being carried out, such that it would give rise to a risk on return for the appellant. Notwithstanding the robust findings made by the First-tier Tribunal, given that there is a need for anxious scrutiny and that this is a protection claim with an inherent risk of irreversible harm if found plausible, I do find that there is only *just* sufficient in this ground to demonstrate that there is a material error of law, such that the First-tier Tribunal’s decision does not reveal that the appellant’s case was taken at its highest, nor that anxious scrutiny given to all of the evidence before the First-tier Tribunal.
5. I heard extensive submissions in relation to the remainder of the appeal however, given that the material omission of evidence touches upon the factual matrix concerning the circumstances of departure and the risk on return for the Appellant,

and notwithstanding that the Secretary of State has accepted at paragraph 30 of the refusal letter that the father was imprisoned for unspecified “political reasons” and that he remains in prison, there is sufficient merit in this ground alone that the remainder of the First-tier Tribunal’s findings are infected by the omission and as such the remainder of the decision should also be set aside as it has been infected by this error.

6. In light of the above findings I set aside the decision of the First-tier Tribunal in its entirety.
7. The appeal is to be remitted to be heard by a differently constituted bench.

**Directions**

8. Standard directions are to be given.
9. The appeal is to be listed for three hours.
10. It is unclear at present how many witnesses will be called, however I anticipate the appellant would at least call the supporting witnesses who gave evidence on a previous occasion.
11. A Farsi interpreter is to be provided.
12. No further directions are given.

**Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008**

Unless and until a Tribunal or court directs otherwise, the Appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify him or any member of their family. This direction applies both to the Appellant and to the Respondent. Failure to comply with this direction could lead to contempt of court proceedings.

Signed

Date 11 September 2018

Deputy Upper Tribunal Judge Saini