



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: PA/14264/2016

THE IMMIGRATION ACTS

Heard at Field House
On 9 July 2018

Decision & Reasons Promulgated
On 17 July 2018

Before

DEPUTY UPPER TRIBUNAL JUDGE SAFFER

Between

AM
(ANONYMITY ORDER MADE)

Appellant

And

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Miss Harris of Counsel

For the Respondent: Mr Tarlow a Home Office Presenting Officer

DECISION AND REASONS

Background

1. Pursuant to Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 (SI 2008/269) I make an anonymity order. Unless the Upper Tribunal or a Court directs otherwise, no report of these proceedings or any form of publication thereof shall directly or indirectly identify AM or any of her family members. This direction

applies to, amongst others, all parties. Any failure to comply with this direction could give rise to Contempt of Court proceedings. I do so as this is a protection claim.

2. The Respondent refused the Appellant's application for asylum or ancillary protection on 9 December 2016. Her appeal against this was dismissed by Judge Telford following a hearing on 27 January 2017. That decision was set aside by Deputy Upper Tribunal Judge Mailer following a hearing on 6 July 2017. The remitted do novo appeal was dismissed by Judge Pedro ("the Judge") following a hearing on 21 March 2018.
3. Her claim to be at risk of persecution due to her not wearing a headscarf, having lied about her children's status here, having had problems with the Iranian authorities about this on a previous trip in 2015, and having difficulties in her relationship with her husband, was comprehensively rejected by the Judge.

The grant of permission

4. Judge Ford granted permission to appeal (3 May 2018) only on one ground. It is arguable that the Judge may have materially erred in not assessing the risk on return to Iran as she will be returning on an emergency travel document (EDT) leading to additional questions, she should not be required to lie about her 3 children being granted refugee status here, and she is 71.

Respondent's position

5. There is no Rule 24 notice. Reliance was placed on **SSH and HR** (Illegal exit failed asylum seeker) Iran CG [2016] UKUT 00308 [31, 32] whereby a failed asylum seeker would be at no risk on return just because they exited illegally.

Appellant's position

6. The decision from Judge Pedro was untenable. There are 3 refugee children, two of whom have political involvement and the third was accused of matters in the government's environment. Judge Pedro only considered the authority of **SSH and HR** in terms of internal flight. The Judge did not explore the fact that refugee status coupled with a lack of an emergency travel document could create a risk. He did not deal with the separation from her husband. She left Iran illegally. The Appellant is 71 which will make it difficult for her to deal with any problems at the airport as evidenced in the GP's letters.

Discussion

7. When I pointed out to Miss Harris the finding the Judge made in relation to the husband, [24] of the decision, that "I do not accept that the Appellant and her husband have anything other than a subsisting stable relationship as husband and

wife” and that leave had not been granted to challenge this, she withdrew that submission.

8. When I pointed out [5] of Judge Pedro’s decision where the history was noted that in December 2015 the Appellant entered the United Kingdom using a visit visa she had acquired prior to her arrival, and there was therefore patently no illegal exit, Miss Harris withdrew her submission.
9. When I asked Miss Harris where the evidence was that her age of 71 was a factor she pointed me to Dr Hosseini’s letter (22 November 2016) that said she was diagnosed with anxiety and depression and was suffering from severe stress and insomnia, and also had some suicidal ideation due to her depression. When I pointed out that nowhere was age mentioned as a factor in that letter she referred me to the letter from Dr Hosseini (17 November 2017) which identified she was 70 and suffers with persistent anxiety and depression. When I pointed out that nowhere in that letter does it say that the anxiety and depression is due to her age, she said that some elderly people do suffer anxiety and depression and are less robust than others. When I pointed out to her that there was no evidence of that within the papers, and there were many people of a similar age who would be concerned at not being thought to be robust, she accepted that there was no evidence and that it varied from case to case. She was unable to point me to any evidence in relation to this Appellant that her age was a factor within her anxiety and depression or would exacerbate any such problem that arose. Her submission had no merit for precisely the reason she gave, namely that it is case specific as to whether a person’s age would or would not be likely to make them more or less robust to questioning, and the complete absence of any such evidence was fatal to her submission.
10. It was for the Appellant to establish that an adverse inference may be drawn from her returning with an EDT such as to lead to additional questioning. There was no evidence the Iranian authorities would ask what her childrens’ status was. Accordingly, there is no real risk she would have to lie. In any event, there is no evidence that just because she had refugee children here the Iranian authorities would have any adverse interest in her.

Decision:

The making of the decision of the First-tier Tribunal did not involve the making of a material error on a point of law.

I do not set aside the decision.

Signed:
Deputy Upper Tribunal Judge Saffer
13 July 2018

