



**Upper Tribunal
(Immigration and Asylum Chamber)**

Appeal Number: PA/02057/2020

THE IMMIGRATION ACTS

**Heard at Manchester
Via Teams
On 2 September 2021**

**Decision & Reasons Promulgated
On 15 October 2021**

Before

UPPER TRIBUNAL JUDGE LANE

Between

**AI
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms Appiah

For the Respondent: Mr McVeety, Senior Presenting Officer

DECISION AND REASONS

1. The appellant is a female citizen of Iran who was born in 1981. She appealed to the First-tier Tribunal against a decision of the Secretary of State dated 13 February 2020 refusing her claim for international protection. The First-tier Tribunal, in a decision promulgated on 26 February 2021, dismissed her appeal. The appellant now appeals, with permission, to the Upper Tribunal.

Ground 1

2. Ground 1 is a challenge to the fairness of the judge's fact-finding assessment. The appellant claims that she was prescribed Setraline, an anti-depressant. At [52], the judge noted the absence of any evidence from the prescribing doctor and the GP notes 'which would have been available [to the appellant] free of charge.' As a consequence, the judge did not attach weight to the expert report of Dr Taja, a clinical psychologist. Ground 1 asserts that it was unfair, without giving notice to the appellant, to hold it against her credibility that she had not provided her GP notes. Moreover, the appellant had suffered from coronavirus; the judge had failed to take this into account in finding that she could have sought corroborative evidence of her medication.
3. Whatever the merits of the judge's rejection of Dr Taja's evidence for the reasons he has given, this grounds founders on account of the lack of materiality of any error perpetrated by the judge. At [45], the judge unequivocally confirms that he has 'at all times treated the appellant as a vulnerable witness'. Ms Appiah, who appeared for the appellant before the First-tier Tribunal and the Upper Tribunal, did not seek to persuade me to go behind the judge's statement. The question, therefore, is whether the appellant's claim to have been taking an anti-depressant or, indeed, the contents of Dr Taja's report would should have made the judge treat the appellant's evidence any differently than he did having accepted that she was a vulnerable witness. Dr Taja refers to coronavirus having 'resulted in [the appellant's] depressed mood getting worse and suicidal thoughts having occurred'. However, Dr Taja (i) makes no assessment of the appellant's likelihood of acting on any such thoughts; indeed, he appears to be doing no more than recording what the appellant had said to him in a WhatsApp video session; (ii) the appellant's worsening mood and suicidal thoughts were, in any event, a consequence of her infection with coronavirus 'for about 3 weeks'; by the time of the hearing before the First-tier Tribunal in February 2021, it is likely from the report that the effects of the infection may have abated but there was no up to date evidence; (iii) Dr Taja makes no assessment of the likely effect the appellant's temporary worsened condition may have had on her ability to give reliable and cogent evidence. An acceptance by the judge that the appellant was taking anti-depressants and, indeed, of the entire contents Dr Taja's report would not have had added anything to the judge's designation of the appellant as a vulnerable witness. In short, the outcome of the judge's assessment of the evidence would not have been any different. Even if I were to find that the judge should have taken account of the report and the appellant's drug treatment, I would not have considered it necessary to set aside the First-tier Tribunal's decision.

Ground 2

4. Ground 2 asserts that the judge erred by finding that the appellant's account of her claimed extra-marital affair was undermined by her failure to provide in evidence the Facebook Messenger messages she claimed to have exchanged with her lover. The appellant had told the judge that she was too 'mentally down to access such information' but the judge

considered that, no matter how 'personally unable' to access the evidence the appellant herself may have been, she had failed to explain why her legal representatives could not have accessed 'and printed off the messages.'

5. Ground 2 is without merit. There was no evidence before the judge (including the report of Dr Taja) which could possibly support the appellant's claim that her mental health was so bad that it had prevented her either printing the messages herself or providing links to her solicitors to do so. The appellant may not, as the grounds assert, have been cross examined regarding the messages but it was her responsibility to put her own case before the Tribunal. The judge was entitled to take into account the appellant's failure to provide evidence from the internet (so, in effect, within the United Kingdom) to corroborate her account.

Ground 3

6. This ground is also without merit. The appellant claims that, by finding that the appellant, being from a conservative family, would have conducted her relationship with her lover 'openly at work' and would have 'spent time with [her lover's family - the pronoun used at [60] is 'her' but this is clearly a typographical error and must be 'his'] family...' the judge contradicted the CIOP of October 2019 which indicates that adultery is 'prevalent in Iran...'
7. I find that the judge correctly assessed the appellant as an individual and by reference to her particular circumstances. It was clearly open to him to find that this particular appellant's behaviour in public was not consistent with her social and familial background.

Conclusion

8. Even if I were to find that each of the grounds had been made out, I should dismiss the appeal. As Upper Tribunal Judge Lindsley observed when granting permission to appeal, several paragraphs of the decision [59 - the appellant's inconsistent evidence regarding surveillance of her behaviour by husband], [61 - the implausibility of her description of the discovery of her affair] and [62 - her implausible failure to try to contact her lover or family in Iran] contain findings of fact which are unaffected by those part of the decision challenged in the grounds of appeal and which were manifestly sufficient to lead the judge to dismiss the appeal.

Notice of Decision

The appeal is dismissed.

Signed

Date 5 October 2021

Upper Tribunal Judge Lane

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

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