

REFUGEE STATUS APPEALS AUTHORITY
NEW ZEALAND

REFUGEE APPEAL NO 76129

AT AUCKLAND

Before: B A Dingle (Member)

Counsel for the Appellant: I Uca

Appearing for the Department of Labour: No Appearance

Dates of Hearing: 2, 3 & 8 October 2007

Date of Decision: 31 March 2008

DECISION

[1] This is an appeal against the decision of a refugee status officer of the Refugee Status Branch (RSB) of the Department of Labour (DOL), declining the grant of refugee status to the appellant, a national of Iran.

[2] The appellant is a single man in his mid-20s. He claims that he is at risk of being persecuted if returned to Iran because of an altercation between himself and an official of the *Bonyad-e Shahid* (Martyrs' Organisation) which ended in injury to the official. The appellant claims that he was arrested and detained for a period of days in relation to this incident but managed to escape custody and leave Iran. He believes that, on return to Iran, he would immediately be arrested, detained in custody and suffer serious harm. The issue to be determined in this case is whether the appellant's account is credible.

THE APPELLANT'S CASE

[3] What follows is a summary of the appellant's evidence. An assessment of

its credibility will follow.

[4] The appellant was born in a regional town of northern Iran. In 1982, before the appellant was born, his father was killed during military service in the Iran/Iraq war. Approximately one year later, the appellant's mother married her late husband's brother and they had two daughters together. In approximately 1986, the appellant's mother's second husband was also killed while serving in the military in the Iran/Iraq war.

[5] In approximately 1993, the appellant, his mother and two sisters moved to live with his maternal grandmother in Tehran.

[6] The death of both of the appellant's mother's husbands meant that the appellant, his two sisters and his mother were all recognised as being family of a martyr. For this reason, the family received financial support from the Martyrs' Organisation which was the primary, and at times only, source of family income.

[7] In the late 1990s, the appellant's mother was given ownership of a house through the Martyrs' Organisation, in which the family resided until after the appellant's departure from Iran.

[8] In 1999, the appellant left school, a few months before graduation, because he needed to find employment and help supplement the family income. However, he was unable to find suitable employment for approximately one year, during which time he remained unemployed. From 2000 until early 2006, the appellant did have full-time employment. He contributed approximately two-thirds of his monthly income to help support the family.

[9] In early 2006, the appellant was dissatisfied with his employment because of long hours and low wages. He wanted to get employment with a state manufacturing company which was employing new workers. He had also been told that members of martyrs' families had a greater chance of finding employment there.

[10] In advance of applying for a new job, the appellant decided to approach the Martyrs' Organisation for a letter which would identify him as the child of a martyr and which, he believed, would assist him in obtaining the employment of his choice.

[11] In early April 2006, the appellant visited the *Bonyad-e Shahid* office to

request a letter. He did not take his martyr's family card with him but did take the reference for his father's file.

[12] When he arrived at the office, he was asked to provide his name, his father's name and his father's file number to a person in the building lobby. That person entered the details into a computer and directed the appellant to go to the first floor office of the employment affairs official. The appellant went upstairs, found the office, knocked on the door and entered.

[13] On entering the office, he was given permission to sit down and he started to explain his request. However, he was quickly interrupted by the employment affairs official, who started criticising the appellant for his appearance and suggested he brought shame on his father's memory as a martyr because of his appearance. For a time, the appellant did not react to the criticism but, as the official continued to denigrate him, he felt his temper rising. The appellant estimates that this continued for between 10 and 20 minutes, during which time the official was interrupted several times by telephone calls.

[14] Finally, the official said words to the effect that if the appellant begged him for help, then the official might lend some assistance. At the same time, the official extended his hand towards the appellant, suggesting that he wanted the appellant to kiss his hand. This insulting gesture was too much for the appellant to bear and he responded by insulting the official, the Iranian regime in general and Ayatollah Khomeini in particular. He swore at the official and said that his father and uncle had been killed in the regime's war and expressed his anger that he (the appellant) should be treated with such disrespect.

[15] The official then responded by calling the appellant a "*mona-fagn*" meaning a spy or someone two-faced. The official also stood up and approached the appellant from around his desk, at which time the appellant also stood up and began backing away towards the wall. A physical altercation ensued in which the official pushed the appellant against the wall with his hands around the appellant's neck, attempting to choke him. The appellant, fearing that he would be choked and not able to breathe, gathered his strength and pushed the official forcefully away from him. The official stepped backwards, lost his balance and fell to the ground, hitting his head on the edge of the desk as he did so. The appellant recalls seeing blood on the floor and, in response, he fled the *Bonyad-e Shahid* building in a panic. He did not encounter anybody on his exit.

[16] On leaving the building, the appellant's immediate thought was that he was in serious trouble and needed to leave Tehran as soon as possible. In order to do so, he decided to return home to collect money and, if possible, see his mother before he left. The appellant began running down the road in the direction of a main road, from where he thought he could get a taxi home. He ran for approximately two minutes, making his way down the street, through a park and down a side road to the main thoroughfare. From there he caught a taxi home. He estimates that the entire trip from the *Bonyad-e Shahid* building to his home took approximately 20 minutes.

[17] When he arrived home, nobody else was there. He immediately went to his own room and retrieved the 4,700 tomans he had in a trouser pocket before searching the remainder of the house for more money. He did not know where his mother kept the housekeeping money, but he estimated she may have had up to 30,000 tomans left for household expenses that month. All the while, the appellant was in a highly agitated state, having realised that he was in serious trouble because of the altercation and that Iranian officials could arrive at the family house at any time in search of him. The appellant felt torn between wanting to remain at the house until his mother got home and wanting to leave before officials arrived to arrest him.

[18] After he had been at home for approximately 25 minutes, the appellant heard a knock at the door. He believed the knock was that of his mother or sister and so he opened the door without asking who was there. He immediately felt a burning sensation in his eyes. The appellant cannot recall anything that happened after the burning sensation until he awoke some time later in a small room. On waking, he felt as if he had been unconscious for some time. The appellant believed that he had been taken into custody by officials of the *Bonyad-e Shahid* although this was never confirmed to him.

[19] Approximately one hour after he woke up, the appellant was asked by a guard to make several written confessions. On account of several items having been found in the appellant's house which the guard alleged showed that the appellant was "anti-regime", the appellant was told that he had to write a statement confessing that he was an apostate and a supporter of a monarchist organisation and that he had been copying and distributing anti-regime CDs. The appellant was also directed to confess that he had pre-planned the assault on the *Bonyad-e Shahid* official. The appellant was left with a pen and paper and, apart from the

delivery of food, he was not approached again for approximately 24 hours.

[20] The appellant did not write the confession. The following day, the guard returned to the appellant's room and, on seeing that no confession had been written, he blindfolded him and took him to a second room. The appellant was seated and could hear the voices of three people in there with him. He was accused of changing his religion, being a monarchist supporter and distributing anti-regime CDs. He was also questioned repeatedly about the same things. The appellant was then offered a drink of fruit juice. Almost immediately after that, he felt an urgent need to urinate but was refused permission to go to the toilet. Those present further humiliated him by tying string around a part of his body which increased his discomfort and urgent need to urinate. After an hour of this treatment, the appellant could bear it no longer and agreed to write the confession. His blindfold was removed and he wrote a confession, stating that he had converted from Islam to Zoroastrianism, that he supported a monarchist organisation and that he had distributed anti-regime CDs. After affixing his signature to the bottom of the confession, he was permitted to go to the toilet and was then returned to his original room. He suffered no further mistreatment while being detained.

[21] After a further two days, the appellant was blindfolded and taken from the room and put into a car. There were two other people in the car - the driver and somebody who sat with the appellant in the back seat. They drove for approximately one hour until the appellant felt the car slowing down. The driver indicated that there was a mechanical fault with the car and got out to look under the bonnet. At that point, the man sitting next to the appellant removed the appellant's blindfold and asked him to swear on the name of his (the appellant's) father that he would tell the truth. The appellant did so and then the official asked him whether his confession was a true confession. When the appellant indicated that it was not, the official expressed sympathy about his plight and asked the appellant in what military operation his father had been killed. When the appellant told him, the official expressed knowledge of the event as he too had been a soldier in the Iran/Iraq war. The official then told the appellant that he could open the door of the car and run away because he would be killed if he did not escape. The appellant expressed surprise at the official's suggestion and asked him why he was trying to help. The official said that he (the official) did not want to be responsible for the unjustified punishment of a martyr's son and said that he would explain the escape by giving an excuse as to why he could not give chase to the

appellant.

[22] The appellant opened his car door and left the car as quickly and quietly as he could. He ran away from the car in the direction opposite to that which the car was facing and, after a few moments, he heard shouts and two gunshots. The appellant crossed the road to the central median strip and continued across the other side of the road where the traffic was travelling in the opposite direction. He then ran down a side road adjoining the expressway he had been on. He ran for a few more minutes until he reached a city square area where he found a taxi. He got into the taxi and negotiated with the driver to take him to his grandfather's house which was in a provincial area approximately three hours' drive from Tehran. He offered to pay the driver a generous sum to ensure he would accept the job.

[23] The trip to his grandfather's house was completed without further incident. On arrival there, the appellant asked his grandfather to pay the taxi driver and then explained his predicament. His grandfather was very upset that the appellant was in trouble but agreed to help him by letting him stay in a small hut situated in the grandfather's vineyard plot some short distance away. The grandfather was fearful of having the appellant stay in the house in case the authorities came there to look for him.

[24] Almost immediately, the appellant travelled with his grandfather to the vineyard hut, about 10 minutes by motorbike from the grandfather's house. The vineyard was surrounded by other orchards and vineyards and was about three to four minutes' walk from an area containing shops, small industry and the local hospital. The appellant was provided with bedding and food, but there was no toilet in the hut.

[25] Because of the lack of a toilet, the appellant walked to the nearby shopping area two to three times a day to use the public toilets there. Each time he went, he saw a Kurdish man (KK) there to whom he began talking. After a couple of days, he asked KK if he knew anyone who would be able to help him depart Iran. The appellant felt safe asking KK for help because he knew Kurdish people had connections with others in the northern border territory of Iran and that most Kurdish people held anti-regime sentiments and so would be willing to assist. KK said he did know of someone who could help and agreed to arrange for a meeting with the appellant.

[26] Approximately one week later, the appellant met with another Kurdish man, GG, who agreed to help the appellant depart Iran. The cost of making arrangements for the appellant to get an Iranian passport and travel from Iran to Thailand was five million toman. GG also told the appellant that to travel onwards from Thailand to New Zealand would cost an additional fifteen million tomans. The appellant's grandfather agreed to finance the initial travel to Thailand and, on that basis, GG took photographs of the appellant in order to get a passport processed. He told the appellant he was able to do so, despite the appellant's difficulties with the authorities, because he had connections in the immigration and passport offices.

[27] Throughout his period in hiding, the appellant made no effort to contact his mother or other family or friends in Tehran. He believed his mother's telephone might be tapped and therefore felt it inappropriate to try and contact her. She had called the grandfather to inform him of the appellant's disappearance but the grandfather did not reveal to her that he was hiding the appellant for fear that the telephone was being tapped.

[28] In mid- May 2006, approximately one month after the appellant went into hiding, GG collected him, produced a passport which contained his correct biographical details and said that it was time to go. The appellant and GG travelled back to Tehran by public transport and taxi. They departed Tehran by air from the Imam Khomeini Airport, passing through the usual customs and immigration security checks. The appellant believes he was able to do so without difficulty because GG had made the necessary arrangements with immigration and security staff.

[29] The appellant and GG flew to Thailand where the appellant was issued with a visitor's visa. He was given an apartment in Bangkok in which to stay while further travel arrangements were being made. On departure from Iran, the appellant's grandfather had given him US\$3,000 to cover his living expenses in Thailand. However, the appellant was unable to arrange further travel from Thailand until he could secure further money. He contacted his mother almost immediately on arrival in Thailand and they agreed that she would try to lease the family house to finance onward travel. However, finding a tenant proved to be more difficult than expected and it took approximately nine months for a lease agreement to be finalised. During that period, the appellant was on a visitor's visa for approximately four months, after which time he remained in Thailand

unlawfully.

[30] In February 2007, a tenancy agreement for the family home in Tehran was finalised and a sum of 40 million tomans was paid by the tenant to the appellant's mother, pursuant to their agreement. The appellant believes that this bond sum is a normal arrangement in Tehran whereby landlords invest the significant amount of bond money, the interest on that money being the financial reward for the landlords. Upon completion of the tenancy agreement, the appellant's mother was able to advance GG the first of three five million toman payments to pay for the appellant's onward travel.

[31] In February 2006, the appellant and GG travelled to Malaysia by train.

[32] In February 2007, the appellant and GG flew from Malaysia to Sri Lanka. The appellant travelled on his own Iranian passport and did not encounter any difficulties. En route to Sri Lanka, GG gave the appellant a false Israeli passport and instructed him to use this passport for entry into Sri Lanka. The appellant entered Sri Lanka on the Israeli passport, although he did not understand why it was necessary. Approximately three days later, the appellant and GG departed Sri Lanka and flew to Hong Kong, where the appellant again used the Israeli passport for entry. While in Hong Kong, GG took the appellant's Iranian passport and kept it, explaining that it would be risky to carry it with him while he was travelling on the Israeli passport.

[33] Three days later, in approximately early March 2007, the appellant departed Hong Kong for Fiji. He was not accompanied on this trip by GG. The appellant was advised by GG to buy a return ticket from Fiji to New Zealand when he arrived in Fiji, but to remain in Fiji for at least 20 days before the departure date to New Zealand so that his travel appeared to be that of a genuine tourist. The appellant followed those instructions, staying in Fiji for 25 days and booking a return ticket Nadi to Christchurch, New Zealand.

[34] On 22 April 2007, the appellant departed Fiji and travelled to New Zealand using the false Israeli passport. He did not experience any difficulties in doing so. On reaching New Zealand, the appellant destroyed the Israeli passport, keeping only the front cover intact until he had disembarked in New Zealand because he realised he may need to show his passport as he exited the plane. The appellant claimed refugee status on arrival at Christchurch International Airport. Since departing Iran, the appellant has learned that his mother has been visited on

approximately four occasions by Iranian authorities seeking his whereabouts. No arrest warrants, charge sheets, court summonses or other official documents relating to the appellant have been presented or delivered to her.

OTHER MATERIAL SUBMITTED IN SUPPORT OF THE APPEAL

[35] Under cover of a letter of 27 September 2007, the Authority received a Memorandum of counsel, a supplementary statement from the appellant and a bundle of country information including information regarding the treatment of individuals and groups perceived to be in opposition to the Iranian regime. During the hearing, counsel helpfully provided a copy of the appellant's original statement handwritten in Farsi and four maps of Tehran. Also submitted was a bundle of photos of expressways in Tehran for the purpose of background information relating to the appellant's account of his escape from custody and country information relating to war veterans and widows and the current Iranian regime.

[36] On 9 November 2007, under cover of a letter of the same date, the Authority received counsel's closing submissions and copies of translations of martyr's cards for both the appellant and his mother. The covering letter also records that the appellant had instructed counsel to request that the Authority decision not be published "because he is easily identifiable as a martyr's son and has concerns for the safety of his family in Iran". This matter is addressed below.

THE ISSUES

[37] The Inclusion Clause in Article 1A(2) of the Refugee Convention provides that a refugee is a person who:

"... owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it."

[38] In terms of *Refugee Appeal No 70074/96* (17 September 1996), the principal issues are:

- (a) Objectively, on the facts as found, is there a real chance of the appellant being persecuted if returned to the country of nationality?

(b) If the answer is yes, is there a Convention reason for that persecution?

ASSESSMENT OF THE APPELLANT'S CASE

[39] Before the identified issues can be addressed, an assessment must be made of the appellant's credibility. The Authority's credibility concerns were clearly articulated during the hearing. In assessing credibility, the Authority has taken into account all the evidence and submissions received both during the hearing and subsequently.

[40] The Authority does not find the appellant to be a credible witness for the reasons which follow.

RETURN TO HOUSE AFTER INCIDENT WITH OFFICIAL

[41] The appellant told the Authority that when he left the Martyrs' Organisation building he held grave fears for his own safety. He believed that he would be arrested, detained and charged with a criminal offence and, if the official died as a result of the injuries, that he (the appellant) would probably be executed. He also told the Authority that the Martyrs' Organisation had his home address and that he knew that home would be the first place that they would look for him.

[42] Notwithstanding these circumstances, the appellant says he left the Martyrs' Organisation and immediately went home where he was subsequently arrested.

[43] The Authority does not believe that this happened. The claim is implausible and the Authority rejects it.

[44] When asked why he returned home, knowing that the officials would go there first in pursuit of him, the appellant claimed that his primary motivation was so that he could collect money to facilitate travel to another city. However, this claim to be motivated by a desire to collect money is undermined by the his evidence that he only had 4700 toman at home and that he did not know how much money his mother might have there although he would not have expected it to be much (at most 20 000 - 30 000 toman). Furthermore, he had no idea where she kept her housekeeping money or whether she would be at home.

[45] It is implausible that the appellant, anticipating certain arrest, detention and possibly execution would have returned home to collect a sum of money which

would not have even financed his taxi ride to, for example, his grandfather's house. This is particularly so when the appellant could have called upon his sister (who also lived in Tehran) or friends to assist him without the need to return home. When asked why he did not enlist the help of his sister or friends, the appellant claimed that the sister's house was in the another part of Tehran and his friends were at work, impliedly asserting that it would have been inconvenient to seek their help.

[46] Counsel also submitted (closing submissions dated 9 November 2007) that "home is the only place that the appellant, a frightened young man, could have gone under those circumstances." The Authority does not accept that submission or the appellant's account. The Authority is in no doubt that if the appellant had been genuinely in fear of his safety, he would have found a way of securing money from friends or his sister without the need to go to the very place he believed the officials would come to look for him. It is also implausible that, having gone home and been unable to find any of his mother's money in his initial 20 minutes or so of searching, that he would remain in the house until the officials arrived.

[47] Nor does the Authority believe the appellant's account that when the officials knocked on the door of the apartment, he opened it without attempting to ascertain who was knocking or taking some other precaution.

[48] The appellant admits that while he was in the apartment he was terrified that the officials would arrive to arrest him and he knew that sufficient time had elapsed for them to have pursued him there. Notwithstanding his fear of their arrival, when there was a knock on the door, the appellant opened it without any attempt to identify who was outside. When asked to explain why he did so, the appellant claimed to believe his mother was at the door because normally a visitor would ring the doorbell rather than knocking and sometimes his mother knocked rather than using her key. The Authority does not believe his explanation and finds that it is an opportunistic invention to mend the implausibility in his account. It is rejected.

[49] The Authority also finds that the appellant's complete lack of memory as to what happened after he opened the door is not believable. He claims to have felt a burning sensation in his eyes and then to have woken, an indeterminate time later, in a small room. He has no memory of how he was transported, by whom or to where. He did not have any injuries when he awoke and could provide no explanation or comment as to why he had been unconscious for the duration of his

transportation and for an indeterminate period following that. Added to the implausibilities above, the Authority concludes that this lacunae in his memory is simply a device to avoid having to provide detailed evidence about the manner of his arrest, where he was detained and by whom.

[50] The Authority also finds the appellant's evidence as to his escape from custody and subsequent method of departure from Iran to be implausible. He claims to have been the benefactor of a series of coincidences and good fortune which is simply too convenient to be believed.

ESCAPE FROM CUSTODY

[51] The appellant claims that as he was being transported from his first place of detention to an unknown destination, the car broke down which required the driver to get out and examine the motor. This provided an opportunity for the appellant and his guard to strike up a conversation which led to the appellant being allowed to escape. This claim relies on the coincidence that (i) the car broke down, (ii) the guard left in the car was a war veteran who was familiar with the battle in which the appellant's father died, (iii) the guard was sympathetic to the appellant's plight simply because his father was a war veteran and (iv) the guard was prepared to believe the appellant's claims not to be guilty of the charges against him and to facilitate his escape. All of these coincidences are accompanied by the further good luck the appellant had in effecting his escape along the edge of the motorway while not being hit by the bullets which were fired at him (presumably by the driver) as he ran.

[52] When asked to provide further details or comment as to why an Iranian official would take the risk of allowing the appellant to escape while under his guard, the appellant continued to rely on his assertion that it was simply because the official was sympathetic to the son of a war veteran. This explanation is unconvincing and, in the context of the inherently unlikely set of coincidences claimed, it is rejected.

ARRANGEMENTS FOR DEPARTING IRAN

[53] Similarly, the Authority finds several aspects of the appellant's account of being in hiding and making arrangements to leave Iran so inherently unlikely that they cannot be believed.

[54] First, the appellant was to benefit from a remarkable series of coincidences in making contact with an agent.

[55] By chance, each time the appellant left the hut to use the nearby public toilets, a Kurdish man (KK) was also at the toilets. The appellant became familiar with him and began talking to him. After two or three days of seeing him there, the appellant told KK that he needed to leave Iran and asked if he could help. KK said that he knew another Kurdish man, GG, who would be able to help the appellant and agreed to put them in touch.

[56] The Authority finds this account is problematic in several respects.

[57] The appellant's evidence about using the public toilets several times a day and striking up an acquaintance with KK is inconsistent with his assertion to be so scared about being seen at the hut that he was scared "even of his own shadow". He claimed to both the RSB and the Authority that he was scared of being seen by any other vineyard workers or by his grandfather's friends. When asked why he made the trip to the public toilets (as opposed to using the vineyard) which would have exposed him to the risk of being seen, the appellant stated that he was very careful when he walked to the toilets and looked to check that no-one was looking. When then asked to explain why, when he was feeling so anxious about being seen and when taking such caution not to be seen, he nevertheless struck up frequent conversations with a Kurdish stranger and told him of needing to leave Iran, the appellant said that he didn't give KK all the details of his predicament and he knew that Kurdish people were generally anti-regime and so would be more inclined to help.

[58] Second, the appellant claims that although he had told his grandfather of his predicament and they had agreed that the appellant could not remain in the vineyard hut for long, there was no discussion between them about what plans might be made for the appellant's ongoing security or departure from Iran. Until the appellant made contact with GG, the grandfather made no apparent attempts to help the appellant effect a plan or even discuss with him the possibilities for departing Iran.

[59] When asked to explain why they had not discussed the matter of his escape, the appellant could give no sensible explanation except to say that after some days in the hut he had managed to make contact with an agent and therefore didn't need his grandfather to make arrangements. To explain why he

had preferred to reveal his predicament and seek help from a stranger (the Kurdish man) rather than asking his grandfather for help, the appellant said he knew his grandfathers friends and they did not seem like the kind of people who would be able to assist.

[60] The Authority rejects this explanation. The appellants' own evidence was that he travelled to his grandfather's house to seek refuge and help. It is inexplicable that he would then fail to discuss options with his grandfather and prefer to rely instead on the advice and assistance of a stranger he met outside the public toilets.

[61] Added to this is the coincidence that GG, who the appellant claims travels all around the world smuggling people, just happened to be available in a small provincial town at the very time the appellant required his assistance. Considered in light of the unlikely set of coincidences outlined above, the Authority finds this is yet another facet of the account which has been fabricated for the appellant's refugee claim.

[62] Considered cumulatively, the evidence about his period in hiding and the way in which he met the agent, the Authority finds that the series of coincidental events that the appellant claims led to his departure are not believable. His account as to the arrangements made for his departure are also rejected.

DEPARTURE FROM IRAN

[63] Further strengthening the Authority's conclusion that the appellant has presented a false account is his assertion that, notwithstanding his profile as an escaped prisoner who had assaulted and wounded an Iranian official, he was able to depart through the airport on a passport which contained his own name, date of birth and other biological details.

[64] In *Refugee Appeal No 75802*, the Authority stated at [57]:

"The Authority has had extensive experience in hearing refugee claims from Iranian nationals. Because of the nature of the Iranian regime, the agent of persecution in such claims is almost always the state. A person's mode of departure from Iran is a highly significant component of their refugee claim. This is because a computerised blacklisting system prevents the departure of persons of interest to the regime whose names have been placed on the blacklist: Danish Immigration Service *Report on Fact Finding Mission to Iran 9-17 September 2000* (September 2000). Iran has a high degree of official corruption and, on a number of occasions, the Authority has accepted evidence that appellants have been able to circumvent the blacklist through the use of contacts and the payment of bribes. Such claims however, receive strong scrutiny and have frequently been rejected."

[65] As noted above, the Authority has previously accepted evidence that refugee claimants have been able to depart Iran through official border posts despite being of interest to the authorities. However, in the circumstances of this case the appellant's claim to have done so is not accepted. The Authority does not believe the appellant's account of having been of interest to the authorities or having met and made arrangements with GG to depart Iran. There is no other credible evidence before it which supports the finding that the appellant circumvented border control by making arrangements with government contacts or anyone else to be able to leave on a passport in his own name and with his correct details notwithstanding being wanted by the authorities. This facet of his claim too is rejected.

LACK OF DOCUMENTS

[66] Also surprising is the fact that the appellant's mother has only been visited four times by officials seeking his whereabouts and that no official documents such as arrest warrants, charge sheets or court summons have been issued and delivered to his family. It would be highly likely, in the circumstances the appellant claims to have escaped from, that such official documents would be issued. When asked for comment on why none had been issued, the appellant suggested that it was because the officials pursuing him do not understand the legal processes required for such documents.

[67] The Authority rejects this explanation and finds that the facile suggestion that Iranian officials would not understand legal processes was a spontaneous and disingenuous attempt to explain away a surprising lack of documentation. Although the Authority acknowledges that there may be instances whereby individuals who are genuinely wanted by the Iranian officials for criminal charges may not be in possession of official legal documents relating thereto, such a lack of documents will always invite a significant level of scrutiny by the Authority. In the context of this claim, the lack of documents adds weight to the view that the account is false and that the appellant is not of any interest to the authorities in Iran.

[68] The Authority also notes counsel's general submission that if the appellant was advancing a false claim, he could have fabricated evidence or information to support his account and that the fact he did not undertake such fabrication supports a finding of credibility. The proposition that a lack of fraudulent

documents somehow bolsters credibility is rejected. It is recalled that the appellant bears the responsibility of establishing his refugee claim (see ss129P(1) and 129P(2) of the Act (referred to in *Refugee Appeal No 72668/01* (Minute No. 2) (5 April 2002) and in *Anguo Jiao v Refugee Status Appeals Authority* [2003] NZAR 647 (CA)).

CONCLUSION ON CREDIBILITY

[69] The Authority acknowledges counsel's submissions (closing submissions, paragraph 18) that :

"The Authority cannot dismiss this appellant's account of events as implausible or without reference to any other information contradicting the evidence. Academic writers have cautioned decision makers against regarding refugee claimants as implausible while giving no reasons for discounting the applicant's credibility on that matter other than the disbelief that the applicant would have followed the alleged course of action"

[70] While this submission is a relevant one and is noted, it does not detract from the findings made above. A credibility assessment necessarily requires an assessment of the totality of the evidence in support of an appellant's case. As set out in detail above, nearly all material aspects of the appellant's account are undermined because they are inherently fanciful, illogical, implausible or unsupported by any relevant documentation. None of the findings made above are individually determinative but are assessed considering the evidence as a whole. The Authority thus has no hesitation in concluding the appellant's claim is a total fabrication. This is not a case where material parts or a core of the appellant's account is plausible while other aspects are not. Therefore the caution of counsel and academic commentators, whilst relevant in cases where a decision maker has real reservations about the credibility findings or where the account is credible in part, does not override the credibility findings made above based on the totality of the evidence.

[71] For all of the reasons given above, the Authority rejects the appellant's account as to the incident in which the Iranian official was injured and any difficulties he had in Iran related thereto. The Authority finds that the appellant has not previously had any profile with the Iranian authorities. The Authority finds that the appellant has presented no credible evidence that he faces a risk of serious harm should he now return to Iran.

[72] Therefore, the first issue framed for consideration is answered in the

negative and the second issue as framed does not arise for consideration.

[73] For the sake of completeness the Authority notes counsel's submission that publication of this decision should be prohibited on the grounds that the appellant may be identified by the Iranian authorities. However, given the credibility findings above, the Authority need not consider that submission further.

CONCLUSION

[74] For the above reasons, the Authority finds the appellant is not a refugee within the meaning of Article 1A(2) of the Refugee Convention. Refugee status is declined. The appeal is dismissed.

"B A Dingle"
B A Dingle
Member