



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

Appeal Number: AA/07242/2015

THE IMMIGRATION ACTS

**Heard at Manchester
On 12 November 2015**

**Decision and Reasons
Promulgated
On 24 November 2015**

Before

UPPER TRIBUNAL JUDGE PLIMMER

Between

**AJ
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the appellant: Ms Johnrose, Broudie Jackson & Canter
For the SSHD: Mr Harrison, Senior Home Office Presenting Officer

DECISION AND DIRECTIONS

Pursuant to Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 (SI2008/269) an Anonymity Order is made. Unless the Upper Tribunal or Court orders otherwise, no report of any proceedings or any form of publication thereof shall directly or indirectly identify the original Appellant. This prohibition applies to, amongst others, all parties.

1. I have anonymised the appellant because he has made an asylum claim. The appellant is a citizen of Iran who claimed asylum in the United Kingdom on 8 October 2014. This claim was refused by the SSHD and he appealed to the First-tier Tribunal. At this hearing the appellant relied upon three reasons for fearing serious harm in Iran: he was at risk from his uncle and the authorities for reasons relating to his family business and Bahai faith; he had converted to

Christianity whilst in the UK; he was at risk as he would be returning as an undocumented asylum seeker. In a detailed decision dated 3 August 2015 First-tier Tribunal Judge Brookfield dismissed the appellant's appeal having comprehensively disbelieved the vast majority of his evidence.

2. At the hearing before me Ms Johnrose focused upon the judge's findings regarding the evidence of Canon White. Canon White attended the hearing and gave evidence regarding the appellant's conversion to Christianity. In a letter dated 1 June 2015 Canon White explained that he was ordained into the Anglican Church in 2003 having worked as a Christian missionary since 1988. He described himself as having significant experience of evangelism over 26 years. He was appointed Residentiary Canon at Liverpool Cathedral with particular oversight of mission and evangelism and he remains in this post. He described the appellant's activities with the Church and his belief that he was genuinely committed Christian. Canon White went on to explain that he deals with a number of asylum seekers in a very busy Cathedral and is therefore unable to attend the Tribunal in person for most claims but stated:

"However where an individual has had prolonged involvement at the cathedral we consider [attending the Tribunal] a high priority, as in the case with [the appellant]".

3. Judge Brookfield regarded Canon White to be a truthful witness who genuinely believed that the appellant was a genuine convert to Christianity [10(xxiii)] but felt unable to accept this assessment [10(xxv)]. Ms Johnrose submitted that the judge gave inadequate reasons for rejecting the Canon's assessment of the genuineness of the appellant's conversion, and approached his evidence in an unfair manner. Mr Harrison asked me to find that the judge provided detailed and comprehensive reasons, and approached the evidence fairly.
4. At the end of submissions I reserved my decision, which I now provide with reasons.
5. Both parties accepted that the record of proceedings demonstrates that Canon White was asked only two questions in cross-examination and two questions from the judge. It was also agreed that this evidence was entirely supportive of the genuineness of the appellant's conversion to Christianity. The SSHD asked what persuaded the Canon to baptise the appellant and who introduced the appellant to Christianity. The judge asked the Canon about the number of Iranian asylum seekers he was involved with and why he believed this appellant was a genuine convert. The Canon's response to the last question is set out in the decision [10(xxi)]. There were no follow up questions to this evidence from the SSHD's representative or the judge.
6. It is clear from the decision that the judge had a number of concerns

regarding matters she considered relevant to the appellant's conversion and she sets these out within the decision [10(xx) to (xxv)]. These can be summarised in the following way:

- (a) there was a discrepancy between the evidence provided by the appellant and that provided by Canon White regarding the length of time the appellant has been attending worship at Liverpool Cathedral (xx);
 - (b) the appellant's claimed introduction to Christianity was unsupported (xxii);
 - (c) whether Canon White had sufficient time to properly assess the genuineness of the appellant as he only had personal involvement with him for five months (xxiii);
 - (d) the extent to which other members of the clergy offered their input to Canon White (xxiii);
 - (e) whether or not the appellant could be said to be genuinely committed to Christianity when he did not take steps to research the various denominations (xxiv);
 - (f) the fact that the appellant sought baptism only three months after he attended services (xxiv).
7. All of the above matters at (a) to (f) are directly relevant to Canon White's assessment, yet he was provided with no opportunity to address these. These issues of concern were not the subject of any questions or clarification from the SSHD or the judge. In this case, a busy senior Church member with substantial experience in assessing the genuineness of conversion to Christianity has attended a hearing on an exceptional basis to provide evidence to assist the judge in determining the genuineness of the appellant's conversion. In such circumstances, it is a matter of basic procedural fairness that key matters of concern relevant to that assessment should be put to the witness. They were not put in this case. That left the judge to speculate on what may or may not be important or relevant without evidentiary foundation. For example the judge said at [10(xxiv)] "*it seems to me* that someone who is considering taking such a big step to convert to or adopt Christianity as their religion and way of life, would have undertaken considerable research into the various branches of Christianity before deciding which branch of Christianity was appropriate to him". The judge has not had the benefit of evidence as to whether such investigation is actually considered relevant or appropriate to those wishing to convert to Christianity. Canon White would have been well-placed to address this but was not given an opportunity to do so. Similarly Canon White has not had an opportunity to address the credibility of the conversion in light of the judge's concern that baptism followed only three months after initial interest.

8. In addition to this each of the reasons offered by the judge for rejecting the assessment of Canon White is flawed and is such that it cannot be said that she has provided adequate reasons for her finding. Flawed findings are more likely to occur when clarification is not sought from the relevant witness, particularly where as in this case that witness is accepted to be a credible expert in his field. I now deal with each reason in turn.
9. I accept Ms Johnrose's submission that the discrepancy at (a) above is more apparent than real. The evidence before the judge regarding the appellant's attendance at Church was broadly consistent. He started attending with his friend in November 2014 when he acted as an interpreter but only started really attending worship in February 2015.
10. The judge's finding that the appellant's claimed introduction to the church was unsupported at (b) fails to take into account that Canon White (who the judge accepted to be a credible evidence) supported the appellant's account that he began attending Church in order to act as an interpreter for his friend.
11. The judge implies that Canon White has only known the appellant for five months and this renders his assessment less reliable ((c) above) but has failed to balance this against the clear evidence from Canon White that the appellant has had extensive personal contact with him and other Church activities and he was prepared to make a clear assessment because he had five months of personal interaction.
12. The judge appears to question the reliability of the Canon's assessment for an additional reason at (d): no one else from the Church who provided 'input' regarding the appellant provided written evidence about this. It is difficult to see why such written evidence was necessary when Canon White was accepted as a truthful witness.
13. Mr Harrison accepted that if contrary to his submissions, I found that the judge had erred in law regarding the evidence of Canon White then the correct course would be for the matter to be remade de novo by the First-tier Tribunal. The judge clearly had an adverse view regarding the appellant's conversion in the UK. This was considered alongside and as part of her view that the appellant was prepared to do and say things in order to secure advantages for himself [10(vi), (vii), (xxv)]. In these circumstances it is difficult to separate her findings regarding this aspect of the appellant's claim from the remaining aspects.
14. In any event it is concerning that the judge was prepared to find that the appellant attended the Mosque when he was 18 and was willing to undergo a religious conversion ceremony [10(vi)]. This is perhaps the only important matter the judge has accepted. The acceptance of this was used by the judge to support her adverse credibility

findings because she considered that conversion to be disingenuous and for no reason other than financial advantage. This finding is difficult to reconcile with the judge's rejection of the claim that the appellant was born into a Bahai family [10(ii), (iv) (xviii)]. The judge has not considered why the appellant needed to attend a conversion ceremony (which she accepted) when on her own findings there was nothing to convert from.

15. In addition, the judge was not satisfied there was evidence to support the appellant's claim that he left Iran illegally and entered the UK clandestinely [10(xxvi)]. The judge has failed to take into account the evidence in the screening interview that the appellant was arrested and fingerprinted shortly after his arrival. In addition the judge speculated that the appellant was probably able to leave Iran lawfully on the basis that he was going to study abroad when there was no evidence to support this.
16. Both representatives agreed that the decision needed to be remade completely and that given the nature and extent of those findings, this should be done in the First-tier Tribunal. I have had regard to para 7.2 of the relevant *Senior President's Practice Statement* and the nature and extent of the factual findings required in remaking the decision, and I have decided that this is an appropriate case to remit to the First-tier Tribunal.

Decision

17. The decision of the First-tier Tribunal involved the making of a material error of law. Its decision cannot stand and is set aside.
18. The decision shall be remade by First-tier Tribunal de novo.

Signed:

Ms M. Plimmer
Judge of the Upper Tribunal
November 2015

Date: 13

