



**The Upper Tribunal  
(Immigration and Asylum Chamber)  
AA/08221/2015**

**Appeal number:**

**THE IMMIGRATION ACTS**

**Heard at North Shields  
On March 15, 2016**

**Promulgated  
On April 12, 2016**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE ALIS**

**MR I K  
(ANONYMITY DIRECTION)**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

Representation:

For the Appellant: Ms Sultani (Legal Representative)

For the Respondent: Mr Mangion (Home Office Presenting Officer)

**DECISION AND REASONS**

1. The Appellant is a citizen of Iran. The appellant left Iran on October 30, 2014 and entered the United Kingdom on November 14, 2014. He was found by the police and claimed asylum the same day. The respondent refused his asylum claim on May 8, 2015 under paragraph 336 HC 395.

2. The appellant appealed that decision under section 82(1) of the Nationality, Immigration and Asylum Act 2002 on May 22, 2015.
3. The appeal came before Judge of the First-tier Tribunal Hand (hereinafter referred to as the Judge) on August 27, 2015 and in a decision promulgated on September 14, 2015 she refused the appellant's appeal on all grounds.
4. The appellant lodged grounds of appeal on September 17, 2015 submitting the Judge had erred in her approach to the assessment of the appellant's Christianity claim. Permission to appeal was granted by Designated Judge of the First-tier Tribunal Appleyard on November 3, 2015.
5. In a Rule 24 letter dated November 16, 2015 the respondent opposed the appeal.
6. The matter came before me on the above date and I heard submissions from both representatives. I agreed that if there was an error in law I would retain the matter in the Upper Tribunal and give directions where appropriate.
7. The First-tier Tribunal made an anonymity direction and pursuant to Rule 14 of The Tribunal Procedure (Upper Tribunal) Rules 2008 I extend that order in the light of the sensitive matters raised in this appeal arising out of the appellant's international protection claim. This order prohibits the disclosure directly or indirectly (including by the parties) of the identity of the appellant. Any disclosure in breach of this order may amount to a contempt of court. This order shall remain in force unless revoked or varied by a Tribunal or Court.

### **SUBMISSIONS**

8. Ms Sultani adopted the grounds of appeal and submitted that the Judge had primarily erred in her approach to the genuineness of the appellant's conversion. The Judge acknowledged that the appellant had shown great interest in the Christian faith, introduced other Iranians to the church, had been baptised, regularly attended church and assisted both in and around the church but found his conversion was not genuine because of factors unconnected to his conversion. The Judge had failed to give sufficient weight to the positive matters highlighted in her decision or have regard to all of the witness evidence including statements from witnesses who had not attended. The Judge's approach in paragraph [33] of her decision was inconsistent with the guidance in SA (Iran) v SSHD [2012] EWHC 2675 (Admin). The Judge had erred in finding he was not a genuine convert because she had failed to give any reasons for why his conversion was not genuine.

9. Mr Mangion relied on the Rule 24 response and submitted the Judge had reached a finding that had been open to her. When considering credibility, the scales were already heavily against the appellant in light of the adverse findings made on his claim. Those adverse findings were relevant when considering whether he was genuine convert and the fact the Judge had made positive findings did not undermine her ultimate conclusion that he had converted to enhance his claim. Although he called evidence to support his claim the Judge found that evidence did not shift the burden sufficiently in the appellant's favour.
10. I reserved my decision.

### **DISCUSSION AND FINDINGS**

11. The appellant had travelled to the United Kingdom and entered clandestinely. During his screening interview the appellant claimed asylum based on political problems and stated that his religion was "Muslim-Shia". On April 16, 2015 he was interviewed about his asylum claim and from Q35 he explained his fears and at Q118 he stated that he was claiming asylum because his life was in danger. Between Q137 and 141 he explained that he had discussed Christianity in Iran and had been accused of advertising Christianity. As is evidenced by the various witness statements and the evidence given to the Judge the appellant had, since arriving here, been baptised and converted to Christianity.
12. The Judge's finding on his core claim have not been challenged in this appeal. The Judge found in paragraph [21] of her decision:
  - a. He had given inconsistent evidence about his dismissal from university and she found he had not been dismissed from teaching in either 2000 or 2008.
  - b. He gave inconsistent evidence about collecting funds for MEK and whether there was direct contact between him and them.
  - c. He had been unable to give details about his work for MEK and where or how money was sent to MEK and he spoke only in general terms.
  - d. He was unable to explain why he chose to support MEK.
  - e. He had neither been arrested nor detained by the authorities for involvement with MEK.
  - f. She rejected his account of what happened in 2009 and found he had not been arrested.
  - g. She rejected his claims about MEK in 2014
  - h. The appellant had not given a true account of events in Iran.

13. Ms Sultani submits that having made those findings the Judge did not give sufficient regard to a separate aspect of his claim namely that he was a genuine convert.
14. The evidence submitted supports his claim to have converted and the Judge accepted that he had converted but quite properly posed the question she had to consider in paragraph [28] namely whether he would genuinely practise the Christian faith in Iran.
15. Mr Mangion and Ms Sultani agree on this point namely the Judge was entitled to have regard to her earlier credibility findings but where they disagree is whether those findings outweigh the positive evidence about his religious beliefs.
16. Ms Sultani referred in her grounds of appeal to the case of SA (Iran) v SSHD [2012] EWHC 2675 (Admin) and in particular paragraph [24]. The Court stated:

“... What appears to have impressed the immigration judge, and then the Home Secretary, is that the Claimant's conversion to Christianity was not regarded by him as genuine, and had been manufactured to assist her asylum claim.

It is a dangerous thing for anyone, and perhaps especially a judge, to peer into what some call a man or woman's soul to assess whether a professed faith is genuinely held, and especially not when it was and is agreed that she was and is a frequent participant in church services. It is a type of judicial exercise very popular some centuries ago in some fora, but rather rarely exercised today. I am also uneasy when a judge, even with the knowledge one gains judicially in a city as diverse as Manchester, is bold enough to seek to reach firm conclusions about a professed conversion, made by a woman raised in another culture, from the version of Islam practised therein, to an evangelical church in Bolton within one strand of Christianity. I am at a loss to understand how that is to be tested by anything other than considering whether she is an active participant in the new church. But I accept that such judicial boldness as this judge showed does not necessarily undermine a decision in law if he does so, and his decision was not successfully appealed. But that is not the only point. There must be a real risk that if she has professed herself to be a Christian, and conducted herself as one, that profession, whether true or not, *may* be taken in Iran as evidence of apostasy. On the basis of the Home Secretary's now stated position, that amounts to a potentially different circumstance from that addressed by the Immigration Judge.”

17. Mr Mangion submitted that the Judge was entitled to reach the conclusion she did in paragraph [36] and demonstrated engagement with the evidence between paragraphs [28] and [41] of her decision. Ms Sultani submits that he has placed too much weight on the adverse findings made on the appellant's core claim and that this has led her to not consider the appellant's conversion fully.
18. In assessing whether the Judge erred it is important not to look at sentences in isolation. It is the Judge's overall approach that has to be considered for the simple reason that people record findings differently.
19. Her findings on the appellant's conversion can be summarised as follows:
  - a. The appellant taught Farsi literature and although there were poems that explored Christianity he did not seek further information, at that time, about the Christian faith.
  - b. After arriving in the United Kingdom he decided to pursue his interest in the Christian faith.
  - c. The appellant demonstrated great interest in the Christian faith and introduced other Iranians to the church. He had been baptised and continued to study the bible and attend courses. He assisted in various ways in and around the church and its activities.
  - d. His family may have viewed his baptism on the web but the broadcast would not have come to the attention of the authorities.
  - e. The evidence of Reverend Waugh, Mrs Martin and Mr Dawson added little weight to the claim. The Reverend had little knowledge of him and based his evidence on what he had been told. Mrs Martin narrated his inquisitive nature about the wording in the bible and that he kept her garden tidy and attended at the drop in centre for asylum seekers. Mr Dawson was an elder and was satisfied having spoken with him that he was a genuine convert.
20. The Judge then concluded having regard to his actions prior to leaving Iran and since being here that he was not a genuine convert and she further found that it was not reasonably likely that he would pursue this faith in Iran.
21. Ms Sultani submits that the Judge's approach was flawed and that he paid no regard to statements from witnesses who had not attended the hearing.
22. Issues on credibility are a matter for the Judge and she had the benefit of hearing the appellant and other witnesses giving evidence. She accepted he had been baptised and that he was

actively following the Christian faith but concluded that this was to “enhance his asylum claim”.

23. Ms Sultani pointed out that he followed the religion after he arrived in the United Kingdom. Mr Mangion referred me to the fact the appellant had not sought to follow the religion in Iran and he submits that the Judge was entitled to reach the finding he did.
24. I accept Ms Sultani’s submission that rejecting his conversion claim because of adverse findings on his core claim would be wrong. However, having carefully read the Judge’s decision I am satisfied this was not the case here.
25. The Judge did reject his claim but she then considered evidence about the appellant’s conversion. A lot of what the witnesses said was not disputed. What was disputed, and this was a matter for the Judge alone to decide, was whether his conversion was genuine.
26. A claim made in bad faith does not mean it cannot succeed as evidenced by the decisions in Danian v SSHD [2002] IMM AR 96 and YB (Eritrea) v SSHD [2008] EWCA Civ 360. The fact the appellant converted after his arrival does not mean the Judge should automatically reject the claim. The Judge was required to consider the evidence and make appropriate findings. In this case the Judge considered the evidence.
27. She was entitled to make the findings she did about the three witnesses because the Reverend had limited dealings with him. She further found Mrs Martin’s involvement appeared more social rather than religious and that Mr Dawson had a vested interest in people joining the church and the appellant had a vested interest in persuading him he was genuine.
28. The findings she made were open to her and she cannot be criticised for making those findings. There were other statements but it is the Reverend’s evidence that carries most weight.
29. The grounds of appeal referred to HJ (Iran) v Secretary of State for the Home Department [2010] UKSC 31. However, Ms Sultani accepted at the hearing that if the appellant was not a genuine convert then his activities in Iran would not be an issue and in line with the test set out in paragraph [35] of HJ there is no need to go any further if he is not a genuine convert.
30. The fact the Judge accepted the appellant was doing what he claimed was something she had to consider. However, the fact he was doing what he claimed could not be looked at in isolation in much the same way refusing his claim to have converted could be rejected because his core claim had been rejected.

31. Based on what was placed before the Judge I am satisfied that the conclusion she came to was one that was open to her.

**DECISION**

32. The making of the decision of the First-tier Tribunal did not involve the making of an error on a point of law. I uphold the First-tier decision.

Signed:

Dated:



Deputy Upper Tribunal Judge Alis

**FEE AWARD**

I make no fee award as I have dismissed the appeal.

Signed:

Dated:



Deputy Upper Tribunal Judge Alis