



**Upper Tribunal
(Immigration and Asylum Chamber)**
PA/02202/2016

Appeal Number:

THE IMMIGRATION ACTS

**Heard in Liverpool
On 4 August 2017**

**Decision &
Promulgated
On 9 August 2017**

Reasons

Before

DEPUTY UPPER TRIBUNAL JUDGE CHAPMAN

Between

**MR NASER [S]
(NO ANONYMITY DIRECTION MADE)**

Appellant

v

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr. G. Brown, counsel instructed by Broudie,
Jackson & Canter

For the Respondent: Mr. McVeety, Home Office Presenting Officer

ERROR OF LAW DECISION AND REASONS

1. The Appellant is a national of Iran, born on 20 March 1976. He arrived in the United Kingdom on 23 October 2015 and claimed asylum the same day, on the basis that he is a Christian covert and

would be deemed an apostate if returned to Iran. The Appellant was interviewed in respect of his claim on 12 January 2016, following which in a decision dated 17 February 2016, his asylum application was refused. The Appellant appealed against this decision and his appeal came before First tier Tribunal Judge Parker for hearing on 20 March 2017. In a decision and reasons promulgated on 3 April 2017, the Judge dismissed the appeal.

2. An application for permission to appeal was made in-time to the Upper Tribunal on 13 April 2017, on the basis that the Judge had erred materially in law in:

(i) adopting an unfair procedure during the course of the hearing ie. the Judge did not raise concerns about the appellant's knowledge of Christianity and unfairly comments that this was not tested at the hearing;

(ii) providing inadequate reasoning for material findings made – in respect of the Appellant's ability to demonstrate knowledge of Christianity given his poor literacy;

(iii) omitting to have regard to relevant evidence *viz* the evidence of a minister of religion with respect to the Appellant's baptism; and
(iv) making a material misdirection on a legal matter related to the appeal *viz* in requiring the Appellant to demonstrate knowledge greater than was envisaged in *Dorodian* (01/TH/01537).

3. Permission to appeal to the Upper Tribunal was refused in a decision by First tier Tribunal Judge Froom dated 27 April 2017 but upon renewal to the Upper Tribunal essentially on the same grounds, permission to appeal was granted by Upper Tribunal Judge Lindsley on the basis that all the grounds are arguable.

Hearing

4. At the hearing before me, Mr Brown stated that he wished to rely on both sets of grounds of appeal to the Upper Tribunal and that, in effect, the challenge is two-pronged: (i) procedural irregularity and (ii) the *Dorodian* point, which is particularly important because in making assessments of this nature *Dorodian* provides guidance as to the nature of the evidence. The Judge in this case considers *Dorodian* at [24] and [25]. The evidence it relates to is at pages 53-56 of the bundle and it cannot be said that what the Judge sets out at [25]-[27] is a proper consideration of that evidence. It was not just the Minister himself but other members of his team shared his view of the Appellant. The Judge at erred at [36] in that the role of the *Dorodian* witness is not to comment on "inconsistencies and implausibilities" and all that can be put is whether the witness is aware that the Home Office are challenging the credibility of the Appellant's account.

5. Mr Brown submitted that other features are troubling and these are mentioned in the grounds: at [26] the suggestion that the Appellant should have been questioned as to his knowledge in examination-in-chief when it is not the role of a representative to deal with this in chief. In his submission the approach of the Judge is potentially infected by procedural irregularity. *Dorodian* does not suggest such an approach; at [28] the Judge held it against the Appellant that he did not know the surname of Mehidi, however, it is not unusual in certain cases not to know the surname of a person eg Jesus Christ. The Judge adopted an approach to a lack of information that he seems to wrongly blame the Appellant's representatives and looking at the quality of the evidence the Judge was not entitled to place less weight on it and has not reasoned it sufficiently.

6. On behalf of the Home Office, Mr McVeety accepted that the Judge's finding at [26] is oddly worded and he agreed that it was not the job of the representative to take the Appellant through a question and answer test of Christianity in examination in chief. What the Judge has done is to adopt the interview record, where the Appellant got everything confused eg. he completely mixed up John the Baptist and the loaves and fishes stories and it was clearly open to the Judge to rely on this and as the Judge said with regard to the *Dorodian* witness, it cannot be viewed in isolation. There was, in this case, a lot going against the Appellant eg not knowing the surname of Mehidi despite the fact that he shared something which could end up with the death penalty. The *Dorodian* witness does not get the full picture. It was open to the Judge to make the findings he did although he accepted on the face of it that the finding at [26] was a "strange comment."

7. In response to my questions, Mr McVeety said that the Judge was entitled to reach his conclusion at [29] and if the Appellant was an ambivalent Muslim it was odd to change to Christianity rather than become a more devout Muslim.

8. In reply, Mr Brown set out material aspects of the chronology in that, the Appellant arrived in the United Kingdom on 23 October 2015; he began attending Church in November 2015 and his asylum interview with the Home Office took place on 12 January 2016. It was only in late August 2015 that he was introduced to the Christian faith and he attended two services in a house Church. It would appear that the Judge uncritically adopted an interview that took place only 4 months later and the Appellant's responses in interview must be seen in light of that timeline. One also has to consider the significant time spent by the Appellant in the United Kingdom yet the Judge makes no other findings as to his knowledge of Christianity. In respect of the Judge's finding at [29] it is odd and it may be that the Appellant found that Christianity provided him with a better faith to deal with that particular problem. He submitted that

it is not a decision that, when fairly read, provides proper reasons. The nature of those errors means that the matter should be remitted back to the First tier Tribunal.

Decision and reasons

9. I find that the First tier Tribunal Judge materially erred in law and I announced my decision at the hearing. I now give my reasons.

10. The First tier Tribunal Judge heard evidence not only from the Appellant but from the Rev Mohammed Edghaterian. The Judge recorded the Reverend's evidence as to the Appellant as follows:

"25. ...He presented himself as a Christian and he's been in regular attendance at the church. He is keen to learn more about the faith.

26. He does say in oral evidence that he believes he is a genuine convert. He did not say he has a good knowledge of Christianity as you would expect from such a convert. He was not questioned in evidence in chief about his knowledge of Christianity."

I find [26] confusing as to whether or not the Judge is referring to the Reverend or to the Appellant, or both. In respect of the Judge's conclusions as to the Reverend's evidence:

"36. I place less weight on Rev. Mohammed Edghaterian's evidence as he has only heard part of the story. The inconsistencies and implausibilities of the appellant's story have not been commented on by Rev Mohammed Edghaterian. I have to take all the evidence into account."

11. Reverend Edghaterian also provided a statement dated 18 October 2016 at pages 53-55 of the Appellant's bundle, in which he states *inter alia* that the Appellant has been attending worship at Liverpool Cathedral regularly since 29 November 2015, including weekly involvement in Sepas the Persian congregation; he completed the five session Baptism Preparation course and was baptized on 27 March 2016; he expressly acknowledged that many have "mixed motives" for seeking baptism, "not least the expectation that it will assist their immigration process" and that he has declined to assist where he has not had confidence in a person's conversion "however Naser has been with us for nearly a year. During that time my team and I have come to know him and become confident that his claim to be a Christian convert is genuine. I am therefore glad to attend as a witness in support of his case." The Reverend also refers to the fact that the Appellant has been active evangelistically, having invited some new people to the

Cathedral.

12. At [23] and [24] of his decision, the First tier Tribunal Judge noted that the effect of *Dorodian* emphasized the need for a minister or pastor to vouch for an appellant and that in *SJ (Christian apostates - evidence) Iran* [2003] UKIAT 00158 the Upper Tribunal held at [22] that Adjudicators should be satisfied completely as to the bona fide not only of the appellant but of the church to which the appellant maintains he adheres. There can be, of course, no question as to the bona fides of Liverpool Cathedral and I find that the Judge failed to properly apply the guidance set out in these two decisions and failed to give proper and adequate reasons for placing less weight on the evidence of Reverend Edghaterian. I accept Mr Brown's submissions that it was not the task of the Reverend to address issues arising from the asylum interview and decision but rather to confirm that the Appellant had been attending Church and to provide his view as to the genuineness of the Appellant's conversion. His evidence on these issues is clear and cogent.

13. Whilst I accept the submission of Mr McVeety that the answers given by the Appellant in his asylum interview were somewhat confused, Mr Brown correctly drew attention to the chronology and the fact that the Appellant had been introduced to Christianity only 4-5 months prior to this date. I bear in mind that he was providing his answers through a Farsi interpreter which may have some bearing (I note that at Q & A 140 it is recorded that a pigeon rather than a dove came to Jesus Christ). I further bear in mind that the Reverend's evidence was that the Appellant had been attending Church regularly since November 2015 ie less than 6 weeks after his arrival in the United Kingdom and about 6 weeks before his interview. These are material issues and I find the Judge failed to consider the central issue of the Appellant's conversion to Christianity in light of all the material evidence.

Decision

14. For the reasons I find an error of law in the decision of First tier Tribunal Judge Parker. I remit the appeal back to the First tier Tribunal in Manchester for a hearing *de novo* with no findings of fact preserved.

Rebecca Chapman

Deputy Upper Tribunal Judge Chapman

4 August 2017