



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

Appeal Number: PA/07313/2017

THE IMMIGRATION ACTS

**Heard at Bennett House, Stoke
On 24th November 2017**

**Decision & Reasons
Promulgated
On 6th December 2017**

Before

DEPUTY UPPER TRIBUNAL JUDGE M A HALL

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

[M J]

(ANONYMITY DIRECTION NOT MADE)

Respondent

Representation:

For the Appellant: Mrs H Aboni, Senior Home Office Presenting Officer

For the Respondent: Miss E Norman of Counsel instructed by Harbans Singh & Co Solicitors

DECISION AND REASONS

Introduction and Background

1. The Secretary of State appeals against a decision of Judge O'Hagan of the First-tier Tribunal (the FtT) promulgated on 12th September 2017.

2. The Respondent before the Upper Tribunal was the Appellant before the FtT and I will refer to him as the claimant.
3. The claimant is an Iranian citizen born [] 1983. He claimed asylum based upon his conversion to Christianity. The application was refused by the Secretary of State on 11th July 2017, and the claimant's appeal was heard by the FtT on 31st August 2017. In a decision promulgated on 12th September 2017 the FtT allowed the appeal, having heard evidence from the claimant and two witnesses. The FtT was satisfied to the required standard that the claimant had converted to Christianity, and therefore would be at risk if returned to Iran.
4. The Secretary of State applied for permission to appeal to the Upper Tribunal. It was contended that the appeal entered by the claimant turned on credibility. It was noted that the FtT attached no weight to the fact that the claimant struggled to answer questions about the Ten Commandments and no weight to the fact that the claimant was unable to name the gifts brought to Jesus in the Gospel on account of the nativity.
5. The Secretary of State submitted that this conclusion amounted to a material error of law. It was submitted that it was open to the FtT to attach limited weight to the claimant's evidence but it was not open to the FtT to attach no weight to that evidence. The claimant in a previous appeal in 2010 had found to be lacking in credibility. It was contended that the failure to attach any weight to the claimant's evidence infected the FtT consideration of credibility in the round and made the findings unsafe.
6. Permission to appeal was granted by Judge Boyes by way of a succinct decision, finding the Secretary of State's grounds to be arguable.
7. Following the grant of permission the claimant did not lodge a response pursuant to rule 24 of The Tribunal Procedure (Upper Tribunal) Rules 2008. Directions were issued making provision for there to be a hearing before the Upper Tribunal to decide whether the FtT decision contained an error of law such that it should be set aside.

Submissions

8. At the hearing before me Mrs Aboni relied upon the grounds contained within the application for permission to appeal. It was submitted that the FtT was wrong to attach no weight to the claimant's inability to answer questions about the Ten Commandments, and his inability to name the gifts brought to Jesus.
9. Miss Norman submitted that the FtT decision disclosed no error of law. I was asked to find that the FtT had carefully analysed the evidence and was aware of the previous adverse credibility findings made in relation to the claimant. Miss Norman submitted that the FtT had made findings open to it on the evidence, and the decision should stand.

My Conclusions and Reasons

10. I find that the grounds submitted by the Secretary of State do not disclose a material error of law in the FtT decision. My view is that the FtT carefully analysed all relevant evidence. It is clear that the FtT took into account in accordance with the Devaseelan guidelines, findings that had been made in a previous appeal in December 2010. The FtT records that the Tribunal on that occasion found the claimant to be wholly lacking in credibility, and a finding of dishonesty was made.
11. The FtT correctly applied the Devaseelan guidelines at paragraph 36. It was noted that the previous Tribunal had considered a different claim from that being considered in this appeal. However the FtT found the factual findings to be made by the previous Tribunal to be relevant, and correctly concluded that it would be wrong to ignore the previous findings, and equally wrong to treat those historic findings as being determinative of the current claim.
12. The Secretary of State has challenged the findings made by the FtT at paragraph 39. It is within this paragraph that the FtT records that “the Appellant struggled to answer questions about the Ten Commandments. I attach no weight to that”. The FtT also records, when considering the gifts brought to Jesus, it “tells me nothing that the Appellant was unable to name the gifts”.
13. However the FtT, in my view, makes a relevant point in paragraph 39, in expressing the view that caution must be shown when trying to assess the credibility of an individual’s claimed faith, based upon their level of theological knowledge. The FtT, again in my view, correctly makes the point that the problem with such an approach is that it conflates faith with knowledge, and a poorly educated person, or somebody whose intellectual functioning is low, may struggle to answer theological questions but nonetheless may be a sincere believer. Equally, a well educated and intelligent person may be very capable of answering questions, but may be a completely cynical witness.
14. The FtT expresses the view that the Ten Commandments are not a central part of Christian teaching and may well not have figured significantly in any teaching to which the claimant was exposed. As to the gifts brought to Jesus, the FtT makes the point that this story will be “culturally familiar to anyone who has grown up in this society, irrespective of belief. To someone who has not, that will not be the case”.
15. I find that the FtT has adequately explained within paragraph 39, why the approach was taken not to attach weight to the claimant’s difficulty in answering questions about the Ten Commandments, and in relation to the gifts brought to Jesus. In addition, the FtT at paragraph 40 made the valid point that a convert to Christianity must be able to explain what attracted them to convert, and to understand the significance to Christians of the death and resurrection of Jesus as that is the core of Christian belief. The

FtT found that the claimant was able to give an accurate, although unsophisticated account, and found this to be consistent with genuine faith. The FtT found that the claimant was able to explain why he had embraced Christianity.

16. At paragraph 41 the FtT considered letters supporting the claimant, expressing belief that he is a sincere convert. The FtT did not attribute significant weight to those letters, on the basis that the authors had not attended the hearing to answer questions. This indicates that the FtT was taking a balanced view when considering the totality of the evidence.
17. At paragraphs 42-46 the FtT analyses with care, evidence given by two witnesses who attended the hearing to confirm their belief that the claimant is a genuine convert. I find that adequate reasons are given by the FtT for placing weight upon that evidence. The FtT found it significant that the witness Mr Bright had known the claimant for approximately fourteen months, and the FtT was, in my view, entitled to place significant weight upon his evidence.
18. I conclude that the FtT has carefully analysed the evidence, taking into account some factors which do not assist the claimant, such as the previous adverse credibility findings, but also taking into account factors which do assist the claimant's case, such as the evidence of the two witnesses who attended the hearing. The FtT gave adequate reasons for attaching no weight to the inability of the claimant to answer questions regarding the Ten Commandments, and the gifts to Jesus and I find no error of law disclosed on that issue.
19. The grounds submitted by the Secretary of State display a disagreement with the conclusions reached by the FtT, but do not disclose a material error of law.

Notice of Decision

The decision of the FtT does not disclose a material error of law. The decision of the FtT is not set aside and the appeal of the Secretary of State is dismissed.

Anonymity

No anonymity direction was made by the FtT. There has been no request for anonymity made to the Upper Tribunal and no anonymity direction is made.

Signed
2017

Date 4th December

Deputy Upper Tribunal Judge M A Hall

**TO THE RESPONDENT
FEE AWARD**

Because the decision of the FtT stands, so does the decision not to make a fee award.

Signed
2017

Date

4th

December

Deputy Upper Tribunal