



**Upper Tribunal
(Immigration and Asylum Chamber)
PA/09037/2016**

Appeal Number:

THE IMMIGRATION ACTS

Heard at Bradford

Decision & Reasons

On 9th October 2017

Promulgated

On 18th October 2017

Before

DEPUTY UPPER TRIBUNAL JUDGE D E TAYLOR

Between

**SHAHRAM RASTEGARFAR
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Hussain of Counsel instructed by Bankfield Heath Solicitors

For the Respondent: Mr M Diwnycz, Home Office Presenting Officer

DECISION AND REASONS

1. This is the appellant's appeal against the decision of Judge Bradshaw made following a hearing at Bradford on 31st January 2017.

Background

2. The appellant is a citizen of Iran. He entered the UK in 2010 and claimed asylum on the basis of his political activities. He was refused and his appeal rights were exhausted in 2011. He claimed asylum on a second

occasion on 11th May 2016, having failed to leave the UK, on the basis that he had converted to Christianity here.

3. The judge rejected the appellant's account of his conversion and dismissed the appeal.
4. The appellant produced evidence at the hearing that he had been baptised on 12th October 2013 and had posted the fact of his conversion and his baptism on his Facebook page. As a consequence his family had discovered he had converted to Christianity and they had threatened to kill him if he returned to Iran.]
5. No findings were made by the judge in relation to that aspect of his claim.
6. The appellant sought permission to appeal on the grounds that the judge had failed to consider and apply AB & Others (internet activity – state of the evidence) [2015] UKUT 257.
7. He relied in particular on the Tribunal's conclusion:

“We find that the act of returning someone creates a pinch point so that returnees are brought into direct contact with the authorities in Iran who have both the time and inclination to interrogate them. We think it likely that they will be asked about their internet activity and likely if they have any internet activity for that to be exposed and if it is less than flattering of the government to lead to a real risk of persecution.”

8. Permission to appeal was granted on that basis by Judge Mailer on 19th June 2017.
9. The respondent served a reply arguing that social media platforms such as Facebook could be manipulated in a variety of ways and any claims to have posted the information onto Facebook had to be viewed through the lens of the appellant's credibility.

Consideration of whether there is a material error of law

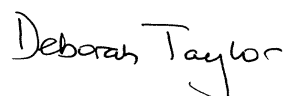
10. The problem in this appeal is that the judge did not grapple with the argument before her, namely, regardless of his credibility, that he would be at risk on return on account of his Facebook activity.
11. The credibility findings in relation to the claimed conversion to Christianity have not been disputed. However findings need to be made in relation to the Facebook postings and whether they are reasonably likely to have been manipulated.
12. Both sides agreed that this matter would benefit from expert evidence and both the appellant and the respondent are directed to file all of the evidence upon which they seek to rely within 28 days of this hearing.

Notice of Decision

13. The original judge erred in law and her decision is set aside. Her adverse credibility findings in relation to the Christian conversion are unchallenged and preserved. The matter is remitted to the First-tier Tribunal to a judge other than Judge Bradshaw for a decision to be made in relation to the internet activity to be heard at least 28 days from the date of the promulgation of this decision.

No anonymity direction is made.

Signed



Deputy Upper Tribunal Judge Taylor
October 2017

Date 16