



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

Appeal Number: PA132632016

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 21<sup>st</sup> June 2017**

**Decision & Reasons  
Promulgated  
On 26<sup>th</sup> June 2017**

**Before**

**UPPER TRIBUNAL JUDGE MARTIN**

**Between**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Appellant

**and**

**M Y  
(ANONYMITY DIRECTION MADE)**

Respondent

**Representation:**

For the Appellant: Mr N Bramble, Home Office Presenting Officer  
For the Respondent: Ms G Mellon of Counsel instructed by Parker Rhodes  
Hickmotts  
Solicitors (Bradmarsh Way)

**DECISION AND REASONS**

1. This is an appeal to the Upper Tribunal by the Secretary of State, with permission, in relation to a Decision and Reasons of First-tier Tribunal

Judge Walker promulgated on 2<sup>nd</sup> February 2017 following a hearing at Hatton Cross. Both parties were represented before the First-tier Tribunal. The claim was made by an Iranian Appellant who claimed to have converted from Islam to Christianity in Iran and to have come to the attention of the authorities necessitating his fleeing to the UK. After a fairly lengthy journey of some six months or so and being fingerprinted in Calais on the way, he arrived in the UK. Whilst in the UK he has been attending church and a fairly short time after he started he was baptised and attends the Baptist church.

2. The judge made reasoned findings rejecting all parts of the claim that related to what had taken place in Iran. He did, however, having heard from the Appellant and a Pastor from the church accept that he was a genuine convert. On that basis he allowed the appeal.
3. The Secretary of State's grounds argue that the judge erred in failing to make findings as to how he would behave in Iran and therefore whether he would be persecuted or not. The grounds rely on the country guidance case of SZ and JM (Christians - FS confirmed) Iran CG [2008] UKAIT 82, now quite old, that found that people who act discreetly and privately and do not evangelise are not at risk.
4. However, things have moved on since then, not in terms of country guidance cases, but in terms of the Supreme Court's Decision in HJ (Iran) [2010] UKSC 31 which, although about homosexuality rather than religion applies to both. A person's religion is a part of their identity; it determines the way they live their life and they cannot be expected to conceal it, and if they do conceal it and the reason for their concealing it is fear of persecution then they are entitled to asylum. That is no doubt what led the judge to allow the appeal and I suspect that that is why the country guidance case was not raised by the representative for the Home Office before the First-tier Tribunal.
5. I note that the Letter of Refusal deals only with the credibility of the claims of what occurred in Iran and the credibility of his claimed conversion to Christianity. No reference is made in the Letter of Refusal to how the Appellant, if indeed he has converted, would behave upon return.
6. I have the benefit of a Record of Proceedings, typed contemporaneously. It is quite clear from that that the Appellant was not cross-examined at all as to how he would behave on return. He was only cross-examined on the basis of whether or not in truth he had converted and about what had taken place in Iran. Similarly, the Record of Proceedings sets out the submissions and there were no submissions other than that the claimed events in Iran were not credible and it was not credible that he has converted to Christianity.
7. I have also had the benefit of looking at the Home Office's Country Policy and Information Note on Christians and Christian converts from Iran which is dated February 2017. While the general policy refers to the country

guidance case of SZ and JM it also indicates that cases must then be assessed in the light of HJ (Iran). Further on, in the more detailed part of the guidance, various reports are quoted and all of them refer to the need to pray at home and not to openly discuss or practise Christianity for a convert to avoid persecution. In the UK this Appellant attends church weekly and on the basis of HJ (Iran) cannot be expected to act differently when he returns in order to avoid persecution.

8. Also in this Appellant's case he will not be, as some people referred to in the guidance are, simply slipping back home to Iran. Rather, he would be being returned from the United Kingdom as a failed asylum seeker. He would be questioned on return. We are told that he cannot be expected to lie so he would say that he is a Christian convert. He is a convert into the Baptist faith which is to a degree an evangelising church and for those reasons the judge was entitled to allow the appeal. The Secretary of State's appeal to the Upper Tribunal falls to be dismissed. In fairness Mr Bramble did not seek to persuade me otherwise.

### **Decision**

The appeal to the Upper Tribunal is dismissed

Signed

Date 23<sup>rd</sup> June 2017

Upper Tribunal Judge Martin

### **Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008**

Unless and until a Tribunal or court directs otherwise, the Appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify him or any member of his family. This direction applies both to the Appellant and to the Respondent. Failure to comply with this direction could lead to contempt of court proceedings.

Signed

Date 23<sup>rd</sup> June 2017

Upper Tribunal Judge Martin