



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: AA/11352/2015

THE IMMIGRATION ACTS

Heard at Birmingham
On 11 May 2018

Decision & Reasons Promulgated
On 22 May 2018

Before

UPPER TRIBUNAL JUDGE HEMINGWAY

Between

B A

(ANONYMITY DIRECTED)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr T Hodson (Counsel)
For the Respondent: Mr D Mills (Home Office Presenting Officer)

DECISION AND REASONS

1. This is the claimant's appeal to the Upper Tribunal from a decision of the First-tier Tribunal (the tribunal) which it sent to the parties on 15 June 2017. The tribunal had decided to dismiss his appeal against the Secretary of State's decision of 13 August 2015 refusing to grant him international protection. On 20 March 2018 I set aside the tribunal's decision, whilst preserving certain of its findings including those to the effect that the claimant had formally been a Muslim but was now a Christian. I directed that there be a hearing before the Upper Tribunal so that the decision could be re-made.

2. The appeal then came before me for remaking purposes on 11 May 2018. Representation was as stated above and I am very grateful to each representative. Whilst I had anticipated hearing quite a lot of evidence I did not, as it turned out, need to hear any at all. That is because Mr Mills had decided to concede the appeal on behalf of the Secretary of State. He explained that he had taken the view that the current state of the law was such that even on the preserved findings alone, the claimant would be at real risk of persecution on return to Iran as a former Muslim who had left Islam and had converted to Christianity. But as a backstop he also noted that there was clear evidence regarding the claimant's activity as a Christian in the UK including activity in which he had sought to persuade others to convert to his new faith. It was likely, accepted Mr Mills, that he would, if returned, behave in a similar way in Iran and such evangelising behaviour would also put him at risk.
3. Mr Mills is a very experienced and highly competent senior Home Office Presenting Officer. Accordingly, I have no hesitation at all in accepting that informed and freely made concession from him. I also regard it as an appropriate concession to have made. So, I have concluded it is not necessary for me to say very much more. I accept on the basis of the concession that the claimant is a refugee and that if he were to be returned to Iran he would face persecution on account of his religion. I also accept that he would be treated in such a way which would bring about a breach of Article 3 of the European Convention on Human Rights (ECHR). So, in remaking the decision I allow his appeal against the respondent's decision of 13 August 2015.
4. I have made an anonymity direction. Perhaps I am being overly cautious in doing so since the appeal has succeeded. But it may be that publication of this decision in an un-anonymised form would create difficulties for the claimant or for members of his family should any of them seek to return to visit Iran at some point in the future, however unlikely any such visits might seem at the present time.

Decision

The decision of the First-tier Tribunal involved the making of an error of law and has been set aside.

I remake the decision in these terms: The claimant's appeal against the Secretary of State's decision of 13 August 2015 is allowed on asylum grounds and also on human rights grounds (Article 3 of the ECHR).

M R Hemingway: Judge of the Upper Tribunal

Dated: 16 May 2018.

Anonymity

The claimant is granted anonymity pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008. No report of these proceedings in whatever form shall directly or indirectly identify him or any member of his family. Failure to comply could lead to contempt of court proceedings.

M R Hemingway: Judge of the Upper Tribunal

Dated: 16 May 2018

To the Respondent: Fee Award

Since no fee is payable there can be no fee award.

M R Hemingway: Judge of the Upper Tribunal

Dated: 16 May 2018