



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: PA/00124/2016

THE IMMIGRATION ACTS

Heard at Manchester, Piccadilly  
On 19<sup>th</sup> December 2017

Decision & Reasons Promulgated  
On 3<sup>rd</sup> January 2018

**Before:**

DEPUTY UPPER TRIBUNAL JUDGE MCGINTY

**Between:**

MR Z.A  
(ANONYMITY DIRECTION MADE)

Appellant

**And**

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

**Representation:**

For the Appellant: Miss S. Khan (Counsel)

For the Respondent: Mr McVeety (Senior Home Office Presenting Officer)

**DECISION AND REASONS**

1. This is the Appellant's appeal against the decision of First-tier Tribunal Judge Bell promulgated on the 28<sup>th</sup> March 2017, in which she dismissed the Appellant's protection appeal.

2. Judge Bell did not find that the Appellant's account of being politically active in Iran with an environmental group "Toolu" to be at all credible, and did not accept that he had anti-Islamic material on his laptop that had been taken by the authorities in a raid upon his home. Nor did Judge Bell accept that the Appellant had genuinely converted to Christianity since the refusal of his asylum claim as claimed. Nor did she accept the Appellant had material on his Facebook site, which would place him at risk upon return.
3. Within the Grounds of Appeal it is sought to be argued in ground 1 that Judge Bell erred in failing to assess the evidence in the round before rejecting the credibility of the Appellant's case. In the Grounds of Appeal and/or her oral submissions, Miss Khan argued that the Judge made findings rejecting the Appellant's credibility of what happened to him in Iran before going on to consider that the Appellant's brother's evidence, in circumstances where the brother had been granted refugee status and where the brother in his own asylum interview had expressly given evidence on the fact that in a raid on the family home on the 21<sup>st</sup> August 2015, the authorities had discovered material relating to the Appellant on his computer.
4. In the second ground of appeal, it is argued that the Judge erred in her assessment of the genuineness of the Appellant's conversion to Christianity and it was sought to be argued by Miss Khan that the fact that the Appellant belonged to a small church with a 90% Iranian congregation, did not mean that the Appellant himself was not a genuine convert. She argued that the reasoning at [41] is inadequate to show why the evidence of NB was insufficient to show the Appellant had genuinely converted to Christianity.
5. In the third ground of appeal it is argued that the Judge's analysis of the assessment of the Facebook evidence was incorrect and that Judge Bell had not sought to clarify any lack of clarity in the evidence of NB regarding the Appellant's Facebook account as to whether or not he had actually seen it or been told about the contents of the account by the Appellant. Within the Grounds of Appeal it was further argued that the Judge speculated as to whether or not the Appellant had access to a passport and the Judge failed to properly assess the risk to the Appellant in relation to his Facebook activities.

6. Permission to appeal in this case was granted by Upper Tribunal Judge McWilliam on the 12<sup>th</sup> September 2017 where he found it was arguable that the Judge did not consider the evidence in the round and allowed the grounds to be argued.
7. In considering this appeal, I have carefully considered the decision of First-tier Tribunal Judge Bell, the Grounds of Appeal, the Rule 24 Reply and the submissions from both legal representatives, which are fully recorded within the record of proceedings, together with all of the evidence contained within the file.

#### My Findings on Error of Law and Materiality

8. Although it is sought to be argued on behalf of the Appellant that First-tier Tribunal Judge Bell failed to consider the evidence in the round before making adverse findings against the Appellant in terms of credibility and before going on to make findings in respect of the brother's account, in circumstances where the brother had been accepted as a genuine Christian convert and had been granted asylum, Judge Bell made it clear at [43] that she had looked at all the evidence in the round, and I do accept having read the decision and Judge's Bell account that she had looked at the evidence in the round before making her findings that the Appellant had not genuinely converted to Christianity but had undergone simply the appearance of conversion to bolster his failed asylum claim. The Judge clearly had to start somewhere, and did start with consideration of the evidence regarding the Appellant's account of his political activities within Iran, and gave clear, adequate and sufficient reasons for her findings in that regard. She was entitled and did take account of the fact that the Appellant's description of the group's activities was extremely vague. She also clearly explained why she did not accept that either his fiancé or his brother would not have initially known about his involvement with the group.
9. The Judge went on to give clear reasons as to why she did not accept the account that he had anti-Islamic material on his laptop from [28], and did not accept that someone who had been very careful about who they distributed leaflets to had simply kept subversive material on his laptop and she found specifically that there was inconsistencies regarding how he had accessed the sites that would have been blocked in Iran.

10. The First-tier Tribunal Judge mentioned that *“I am of course aware that his brother was granted refugee status as a Christian convert, but that does not mean that every aspect of his account was accepted and this does need lead me to find that the Appellant’s account of events in Iran is credible once the reasons given above”*. In that regard, the Judge went on at [42] to set out the brother’s evidence regarding the Appellant’s account that he had been aware that his brother had converted to Christianity in Iran and the Appellant’s brother had claimed he had been aware that the Appellant had been involved with Toolu, and gave clear, adequate and sufficient reasons for finding the Appellant was not credible in terms of him not knowing about his brother’s conversion, and for disbelieving parts of the evidence of the brother’s account at [42]. In circumstances where the brother had been granted asylum as an administrative decision without there being clear findings made by a Tribunal, that was a process open to the Judge on the evidence before her. She did not have to accept the entirety of the brother’s account and has not made findings inconsistent with him being granted asylum.
11. However, the Judge had to start somewhere when considering the evidence, and I find has taken account of all the evidence in the round as she said she had done, and has not simply made credibility findings adverse to the Appellant before going on to consider in isolation, the brother’s evidence in that regard. I therefore find that ground 1 of the Grounds of Appeal lacks merit.
12. In respect of the second ground of appeal I do not accept that the submission by Miss Khan that Judge Bell is in fact criticising the church or NB, when making her findings regarding the Appellant’s conversion to Christianity The Judge is not, contrary to the submission made, questioning the genuineness of that church. Judge Bell at [41] accepted that the Appellant had been regularly attending church since March 2016 and accepted that NB considered him to be a genuine convert. However, it was open to her on the evidence to find that it was an extremely small church with a congregation of only 12 to 14 regularly turning up on Sundays, 90% of whom were Iranian. The point she was making was that she had very grave doubts as to whether or not the church was in fact being taken advantage of by Iranian asylum seekers.

13. However, she went on to question the timing of the nature of the Appellant's conversion taking account of the evidence she had not found credible regarding the events in Iran, and in circumstances where he had told the interviewer that he had no religion and then when his brother was granted asylum in December 2015, and also after his own asylum claim had been rejected that the Appellant had then started attending church in March 2016 not having attended at all before that. It is not the case that simply because someone from a church considered the Appellant to be credible, that the Judge had to accept that evidence. The Judge had given clear, adequate and sufficient reasons for not accepting that the Appellant was actually a genuine Christian convert as claimed and has clearly explained her reasoning in [41] and made findings which were open to her on the evidence.
14. She was not criticising bona fide of the church, simply was giving reasons as to why the Appellant was not a genuine convert. The second ground of appeal also lacks merit.
15. In respect of the third ground of appeal regarding the assessment of the Facebook evidence, the point being made by Judge Bell was at [44] that she was handed a printout of his Facebook page, but there was nothing on it relating to Christianity. She said that she had been told that was because the representative was not a member of Facebook and had therefore not been able to access the full site, but she explained that she was unable to understand why the full site could not have been accessed by the Appellant's representative with the assistance of the Appellant. That was a finding open to her and she commented upon the lack of evidence regarding what was said to be on his Facebook site regarding Christianity. She was also entitled to find that NB although saying in his oral evidence that the Appellant had posted Christianity related material on his Facebook page had not explained in his oral evidence whether he had actually seen it or been told about it by the Appellant.
16. Although Miss Khan seeks to criticise Judge Bell for not having clarified that issue, it is clearly for the Appellant and his witnesses, to provide clear evidence themselves on such issues, and clearly, Miss Khan could have sought to deal with that issue in re-examination, had she so chosen. It is not for Judge Bell to plug deficiencies in the Appellant's evidence.

17. In circumstances where the contents of the Facebook page which were said to have actually given rise to a risk had not been produced to Judge Bell, she was entitled to find that NB had not explained whether or not he had actually seen that evidence or simply been told about it by the Appellant. That was a finding open to her on the evidence and there is nothing in her findings, to reveal any material error of law in that regard.
18. In a thorough decision, Judge Bell has given clear, adequate and more than sufficient reasons for rejecting the Appellant's account on the evidence which is open to her and made findings which were open to her on the evidence. The decision does not reveal any material error of law and is maintained.

Notice of Decision

The decision of First-tier Tribunal Judge Bell does not reveal any material error of law and is maintained;

I do make an Anonymity Order in respect of this case, such Order having been made by the First-tier Tribunal. I therefore do Order that the Appellant is entitled to anonymity. No record or transcript of these proceedings may identify the Appellant or any member of his family either directly or indirectly. This direction applies both to the Appellant and to the Respondent. Failure to comply with this direction may lead to contempt of Court proceedings.

Signed

*RFMcGinty*

Deputy Upper Tribunal Judge McGinty

Dated 19<sup>th</sup> December 2017