Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: PA/03117/2018

THE IMMIGRATION ACTS

Heard at Field House	**Decision & Reasons Promulgated**
On 21st September 2018	**On 25th October 2018**

Before

DEPUTY UPPER TRIBUNAL JUDGE JUSS

Between

[M S]
~~(ANONYMITY DIRECTION NOT MADE)~~

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr A. de Ruano (LR)
For the Respondent: Ms S. Vidyadharan (Senior Home Office Presenting Officer)

DETERMINATION AND REASONS

This is an appeal against the determination of First-tier Tribunal Judge Hussain, promulgated on 7th June 2018, following a hearing at Hatton Cross on 20th April 2018. In the determination, the judge dismissed the appeal of the Appellant, whereupon the Appellant subsequently applied for, and was granted, permission to appeal to the Upper Tribunal, and thus the matter comes before me.

The Appellant

The Appellant is a male, a citizen of Iran, and was born on 10th November 1994. He appeals against the decision of the Respondent dated 5th August 2016, refusing his application for asylum and for humanitarian protection, pursuant to paragraph 339C of HC 395.

The Appellant's Claim

The essence of the Appellant's claim is that if he is returned to Iran, he would face mistreatment because of his conversion to Christianity. He had been raised a Muslim in Shia Iran, and he followed his religion until the age of 15. His friend, [AJ], then introduced him to a "house church" on 14th February 2016. The Appellant began attending the house church on three separate occasions and on 7th March, the church was raided. The Appellant claimed that he left Iran on 9th March 2016 and the authorities raided his home two days thereafter. During the raid, they found a tape about Jesus Christ and a book. The Appellant now fears that if he is returned to Iran, the authorities will kill him for his conversion to Christianity.

The Judge's Findings

In a detailed and comprehensive determination, the judge began by summarising the nature of the Appellant's claim, namely, his conversion from Islam to Christianity (paragraph 30). The judge then went on to consider the veracity of the claim of conversion, noting that the Appellant's "account lacked detail and was inconsistent" (paragraph 31). The judge observed that considering that the punishment for being a Christian in Iran was execution, the Appellant's answer lacked any emotional detail or worry, especially when he believed that his friend's conversion could potentially lead to execution (paragraph 31). The judge went on to note, on the other hand, that the Secretary of State's arguments were more compelling. The Appellant's enthusiasm for embracing a new religion was remarkable, given his attitude to his own faith, which was what may be regarded as neutral (paragraph 32). The judge observed that "the Appellant had no history of any practice of the Shia faith" (paragraph 33). In relation to the raid of the house church, the judge observed the Appellant's claim that he had worshipped there on three separate occasions, but noted that the Appellant had been given many chances to explain why he had decided to become a Christian, three years after not having any religion at all, and the answers he had given lacked detail (paragraph 34). The Appellant's claim that when his mother fell ill he had prayed both in the Christian religion and in the Shia Islam religion but the latter had not worked but the former led to his mother getting better was not plausible. The judge did not accept that the Appellant was moved by what would be a "miracle" taking place (paragraph 35).

On the other hand, the judge did consider the church witnesses. He found that the "sincerity of the priest who gave evidence before the Tribunal as regards his belief in the genuineness of the Appellant's conversion" could not be faulted (paragraph 41). However, the judge concluded that

> "the Appellant was not a Christian convert in Iran. It is not the Appellant's claim that for the first time he found the religion of Christianity in this country. It must follow therefore that his attendance at church is also contrived as part of his overall effort to seek asylum in this country on the grounds of his alleged apostacy" (paragraph 41).

Finally, the judge went on to consider the existence of a medical report that showed that the Appellant "suffers from mental health issues, including posttraumatic stress disorder", but observed that, whatever the origin of these problems, "no evidence has been presented before me to show that treatment for these conditions are not available in Iran" (paragraph 43).

The appeal was dismissed.

Grounds of Application

The grounds of application state that the decision of the judge ignored the country background evidence submitted by the judge inaccurately stating that neither party had put any such evidence before the Tribunal (at paragraph 29). The decision also ignored and simplified matters excessively in seemingly finding that lack of previous serious religious belief would prevent any serious religious belief ever developing (at paragraphs 32 to 33). Moreover, the grounds state that the judge expressed the expectation of proof of a miracle (at paragraph 35) when the Appellant claimed to have prayed in Christian worship and seen his mother recover. It was also stated that, as far as remembering dates was concerned, it is generally difficult to remember exact dates, and the judge was overly critical of the Appellant in this respect.

In fact, the judge completely misunderstood the matter in relation to the remembering of dates. This is because what is clear from the Appellant's own witness statement (at paragraph 8) is the Appellant confessing that he has difficulty remembering things, but that "the best way to do this may be to work backwards from the latest dates to the earlier dates". This did not show that he was attempting to be evasive. He was, on the contrary, attempting his very best to try and assist the Tribunal in terms of remembering details of dates and events. The judge, it was said, also inappropriately referred to the Appellant as being "caught red-handed as having lied" when all that was happening was that the Appellant was having trouble remembering dates. All in all, it was said that the decision lacked anxious judicial scrutiny.

This is also clear from the fact that the judge stated that "there is absolutely no evidence placed before the Tribunal to show that the Iranian authorities monitor these postings and will follow them up with individuals if they return to their home country" (at paragraph 40) when there was a decision of **AB [2015] UKUT 0257**, which pointed to the contrary in stating that "some monitoring of activities outside Iran is possible and it occurs. It is not possible to determine what circumstances, if any, enhance or dilute the risk although a high degree of activity is not necessary to attract persecution" (see paragraph 466).

Indeed, the Tribunal accepted the genuineness of the Appellant's Christian religious activity in the UK (paragraph 41), and if that was the case, it was contradictory to then say, on the basis of the same evidence, that the Appellant was not a genuine religious convert.

On 25th July 2018, permission to appeal was granted by the Tribunal, on the basis of there being arguable errors, when paragraphs 29, 37, 38 and 40 are cumulatively taken into account.

Submissions

At the hearing before me on 21st September 2018, Mr A. de Ruano appeared on behalf of the Appellant and submitted that he could do no better than to rely specifically on the detailed and comprehensive grounds of application, for which permission had been granted by Judge P. J. M. Hollingworth in specific paragraphs which drew attention to precisely those areas where the judge had arguably erred in law. He submitted that the judge had ignored the existence of medical evidence and there was a case for an error of law finding to be made.

For her part, Ms Vidyadharan submitted that the judge did consider all the evidence. Indeed, no criticism could be made of the judge in terms of ignoring the medical evidence. This was clear from the outset of the determination, where under the heading "Proceedings at the Hearing" the judge had stated that the Appellant had adopted his witness statement as his evidence, and that "in cross-examination, the Appellant was referred to his medical reports, some of which discuss his memory and asked to name the type of doctor he saw" (paragraph 5).

Thereafter, towards the end of the determination, submitted Ms Vidyadharan, the judge had then again referred to the medical evidence in his final paragraph. He had stated that, "I have seen a medical report that shows that the Appellant suffers from mental health issues, including posttraumatic stress disorder". However, the judge had gone on to say that the "origin of his problems" was not necessarily clear (see paragraph 43).

Aside from this, Ms Vidyadharan submitted that the factual findings of the judge were entirely open to him, given what is stated at paragraphs 31 to 37. This was simply an attempt to re-argue the case. I should dismiss the appeal.

No Error of Law

I am satisfied that the making of the decision does not involve the making of an error on a point of law (see Section 12(1) TCEA 2007) such that I should set aside the decision. I bear in mind that the threshold for the Appellant is a high one. This is clear from the words of LJ Brooke in **R (Iran) [2005] EWCA Civ 982**, where His Lordship stated that, "it is well-known that 'perversity' represents a very high hurdle" (paragraph 11). His Lordship went on to explain that, "far too often practitioners use the word 'irrational' or 'perverse' when

these epithets are completely inappropriate" (paragraph 12). I find the same to be the case here.

My reasons are as follows. The judge does in detail give reasons for why he rejects the core claim by the Appellant (in paragraphs 31 to 37). He notes that the Appellant's account lacked detail. He observes that the Appellant, the judge states, was unable to adequately explain, despite being given many chances, why he decided to become a Christian three years after not having any religion at all. Moreover, the judge also did not accept that the reason for the Appellant's conversion was the fact that after a prayer in Christian worship the Appellant's mother got better, when she did not do so after he had prayed in the Islamic faith. However, aside from this, the judge goes on to say: "The Appellant's biggest difficulty arose from the dates he gave in relation to his meeting his friend, attending the churches, as well as a raid on the church" (paragraph 37). The judge gives very detailed consideration to this. He was not satisfied that the Appellant attributed his failings to his memory (paragraph 37). Indeed, the judge came to the view that the Appellant was not being truthful (paragraph 38). He was of the view that the Appellant's claim was entirely contrived (paragraph 39). These conclusions were open to the judge, in just the same way as the conclusion that the judge found the "sincerity of the priest" attending on the Appellant's behalf to have been beyond reproach (at paragraph 41).

Decision

There is no material error of law in the original judge's decision. The determination shall stand.

No anonymity order is made.

This appeal is dismissed.

Signed Date

Deputy Upper Tribunal Judge Juss 20th October 2018