



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: PA/04044/2016

THE IMMIGRATION ACTS

Heard at Bradford  
On 18 June 2018

Decision & Reasons Promulgated  
On 30 July 2018

Before

UPPER TRIBUNAL JUDGE LANE

Between

DIYAR MOHAMMADI  
(ANONYMITY DIRECTION NOT MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Worthington, Parker Rhodes Hickmotts, Solicitors  
For the Respondent: Mrs Pettersen, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant, Diyar Mohammadi, was born on 10 November 1996 and is a male citizen of Iran. He claims to have left Iran in November 2010 and lived in Iraq until the end of September 2015. Thereafter, he travelled clandestinely to the United Kingdom arriving in October 2015 when he claimed asylum. His claim for asylum was refused by a decision of the respondent dated 12 April 2016. The appellant appealed against that decision to the First-tier Tribunal (Judge Monaghan) which, in a decision promulgated on 23 March 2017, dismissed the appeal. The appellant now appeals, with permission, to the Upper Tribunal.

2. The appellant had claimed before the First-tier Tribunal that he was at risk on account of having converted to Christianity. That claim was rejected by the judge whose finding is not challenged before the Upper Tribunal. Instead, there is a challenge in respect of the judge's consideration of a tattoo of a cross on the appellant's neck. The appellant asserts that the judge has failed properly to consider whether the presence of the tattoo would lead to the appellant being aggressively questioned and thereafter detained and harmed upon return to Iran. The appellant submits that the tattoo, even though it did not represent a genuine reflection of the appellant's faith, might put him at risk. Further, the judge failed to assess the evidence and the risk to the appellant at the date of the hearing; as the grounds state, "at the date of the hearing the appellant had a tattoo."
3. I find that the appeal should be dismissed. I have reached that decision for the following reasons. First, the judge has considered the appellant's cross tattoo at length at [50 - 57]. It was open to the judge to observe that there was no evidence before him to show that a cross tattoo would lead the interrogating authorities at Tehran Airport to abuse or detain the appellant. The judge also notes that, if questioned about the tattoo, the appellant would truthfully state that it had no adherence to the Christian faith, of which the appellant is not a genuine follower. Secondly, the judge recorded that the appellant had had other tattoos removed [55]. He had also covered the cross tattoo with a scarf when it was necessary to do so on previous occasions; the appellant appears to have had the cross tattoo since he was 13 or 14 years old, in or around the year 2010, that is several years before he came to the United Kingdom. In the circumstances, it was open to the judge to find that, if necessary, the appellant would cover the cross tattoo with a scarf upon arrival in Iran. Mr Worthington submitted that such steps would only be temporary and that the appellant would, at some time in the future, have to expose the tattoo. The problem with that submission is that the judge has found that the appellant has had other tattoos removed in the past and, although he does not state so in terms, it is apparent from a reading of his decision that the judge believed that the appellant would remove the cross tattoo should it be likely to expose him to risk. In other words, the appellant had, as at the date of the hearing, an intention to remove the tattoo in such circumstances. That intention formed part of the factual matrix existing as at the date of the hearing before the First-tier Tribunal. Moreover, the appellant has (see above) lived in Iran with the tattoo without coming to any harm.
4. Thirdly, there was no risk of the appellant being compelled to lie in order to avoid the risk of ill-treatment. There was no evidence that the cross tattoo would lead to any potentially problematic questioning of the appellant but, even if he were questioned, he would be able to tell the truth, namely that he had pretended converting to Christianity solely in order to bolster his claim for international protection. There is no evidence to suggest that the Iranian authorities would not accept that explanation or would waste time and resources detaining and ill-treating an individual who posed no threat.
5. In the circumstances, this appeal is dismissed.

**Notice of Decision**

6. This appeal is dismissed.
7. No anonymity direction is made.

Signed

Date 20 JULY 2018

Upper Tribunal Judge Lane

**TO THE RESPONDENT**  
**FEE AWARD**

I have dismissed the appeal and therefore there can be no fee award.

Signed

Date 20 JULY 2018

Upper Tribunal Judge Lane