



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: PA/09253/2017

THE IMMIGRATION ACTS

Heard at Manchester
On 03 October 2018

Decision & Reasons Promulgated
On 02 November 2018

Before

DEPUTY UPPER TRIBUNAL JUDGE O'RYAN

Between

MR SJ
(ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr C Timson, Counsel instructed by Pure Legal Solicitors

For the Respondent: Mr C Bates, Home Office Presenting Officer

DECISION AND REASONS

1. The Appellant appeals against the decision of Judge of the First-tier Tribunal Morris dated 20 March 2018 dismissing the Appellant's appeal against the decision of the Respondent dated 19 June 2017 refusing his protection and human rights claim.
2. The Appellant is a national of Pakistan who first entered the United Kingdom with entry clearance valid from 4 November 2013 to 20 March 2015 as a Tier 4 student. His leave to enter was curtailed on 10 June 2014 with no right of appeal. He was encountered by the police on 29 October 2016 and served with administrative

removal papers as an overstayer. He claimed asylum, the screening interview taking place on 29 December 2016 and the full SEF interview taking place on 1 April 2017.

3. The Appellant sought protection on the grounds that in Pakistan he had attended a Christian church with a friend, starting from 2009. Having been born a Muslim, his family objected to his attendance at the church when they found out about this. The Appellant claimed to have been beaten by his family, but he remained living with them until he came to the United Kingdom in 2013. When he claimed asylum in 2016 the appellant claimed that since he had been in the United Kingdom, he had actually converted to Christianity and attended a church regularly in the UK. He feared serious harm from his family and others because it was known, or would become known, that he had converted his religion from Islam to Christianity, and this would be seen adversely in Pakistan.
4. The Respondent refused the application for reasons set out in the decision letter of 19 June 2017 which were, in summary that his conversion to Christianity and the problems with his relatives due to his change of religion were not credible.
5. The Appellant appealed, that appeal coming before the judge on 13 March 2018. The appellant applied for an adjournment of the hearing *inter alia* to permit a minister to attend from the appellant's church in the UK. The judge refused that request for reasons set out at [5]-[6]. The appeal proceeded and the judge made certain findings which can be set out, in summary, as follows:
 - (i) The Appellant had not adduced any oral evidence from any witness who would have supported his claim to have converted to Christianity and had not therefore produced a witness according with the principles set out in the case of Ali Dorodian (01/TH/1537).
 - (ii) The judge found that he had been unable to satisfy himself that the Appellant's claim "to adhere to the Christian faith is not a transient claim brought into existence purely for the purposes of pursuing an asylum claim" [37].
 - (iii) The Appellant showed only a limited knowledge of the Christian faith, and had made a mistake as to the name of the church that he was said to attend [38].
 - (iv) The judge found that there was confusion in the Appellant's evidence with regard to certain key dates. For example at [39]:

"... the Appellant stated that he had told his family that he was practising Christianity in April 2015 but that he only began to refer to himself as a Christian in July or August 2015. His explanation for this apparent inconsistency that when he had referred to practising Christianity he had meant practising in the sense of getting to know or learning about Christianity rather than being a committed Christian was not persuasive, even to the lower standard, as I do not find it credible that if the Appellant had been at such an inchoate stage in terms of his faith in April 2015 (as he maintains), he would have told his family that he was practising Christianity in the full knowledge of the impact that telling them that would have in terms of his relationships with them and Pakistani society generally."

(v) The judge also had regard at [40] to Section 8 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004, noting that he had entered the United Kingdom in November 2013 and had not claimed asylum until some three years later, and then only after being arrested and detained by the police, this represented behaviour undermining the Appellant's credibility.

(vi) The judge held at [41]:

"Having considered all the evidence before me in the round in accordance with the decision in Karanakaran and applying the guidance set out above from SJ (Christian Apostates - Evidence) Iran, on the basis of the Appellant's evidence he has failed even to the lower standard to discharge the burden of proof upon him to satisfy me that he is genuinely a convert from Islam to Christianity."

(vii) Further, at [47] the judge held as follows:

"47 In this regard, I obviously accept the general submission made by the Appellant's representative regarding the guidance in the CIG not least that it is recorded at paragraph 2.3.2, 'It would be difficult for those known to be Christian converts to live freely and openly in Pakistan' and, at paragraph 2.7.1, 'Where a person's fear is of ill-treatment/persecution at the hands of the state or non-state actors on the basis that they are a Christian convert, they will not be able to relocate to escape that risk.'

...

48 Self evidently, however, this objective information, particularly those sections of the CIG quoted above and those relied upon by the respondent's representative as detailed above, are predicated upon the individuals referred to in those documents been Christians (or belonging to other minority religions) or, worse from the perspective of the CIG, converts to Christianity from Islam and, as indicated above, I find on the evidence that has been put forward before me that this can't be neither. "

(viii) The judge concluded at [49]:

"In summary thus far, for the above reasons, the Appellant has failed to discharge the burden of proof upon him to satisfy me that substantial grounds have been shown for believing that, if returned to his home area of Pakistan, he would face a real risk of suffering serious harm. That being so, neither the issue of sufficiency of state protection nor of internal relocation elsewhere in Pakistan arise for consideration in this appeal."

6. The Appellant's appeal was consequently dismissed.

7. In grounds of appeal to the Upper Tribunal dated 3 April 2018 the Appellant argues, in summary, as follows:

(i) The Appellant asserted that he had attended a Christian church in Pakistan with a friend and because of that he was at risk from both his family and the authorities in Pakistan as someone who will be perceived to be a Christian convert. His family had made threats to kill him and had indicated others would kill him also. The judge made no findings on whether the Appellant did

indeed attend a Christian church in Pakistan with a friend, and no finding is made on the likelihood of his family having made the threats he claimed and the consequences of that for the Appellant. (Grounds, para 4-6)

- (ii) "In the instant appeal it is submitted that the Appellant arguably should have been given the benefit of the doubt on the misunderstanding that the attendance of his priest in person was necessary, ..." (Grounds, para 8)
- (iii) "... but even if that is wrong, on the basis of the Judge's reasons for not adjourning the appeal, it is submitted that a finding was required on whether he had indeed attended church in Pakistan, whether his family had made the threats they had and what the consequence for the Appellant would be on return to Pakistan." (Grounds, para 8)

8. The grounds also argued that in light of the aforesaid alleged errors, the judge's assessment as to whether there would be very significant obstacles to his integration into Pakistan on return, as per paragraph 276ADE(1)(vi) was erroneous in law.
9. Permission to appeal was granted by Judge of the First-tier Tribunal Nightingale in a decision dated 16 April 2018 on the basis that such alleged errors were arguable.
10. I heard from the parties today. Mr Timson adopted the grounds of appeal and expanded upon them. Mr Bates defended the decision of the judge arguing that there was no material error in the decision. I also asked the parties to address me on whether any error on the part of the judge would have been material, on the basis that the Appellant appears to emanate from a particular town, and the evidence in the SEF interview was that he did not have any extended relatives in other parts of Pakistan; if, as found by the judge, the Appellant did not to have a genuine belief in Christianity, I invited submissions on whether the Appellant could internally relocate away from his home area.

Discussion

11. Insofar as the appellant argues that the judge erred in failing to make a finding the appellant had informed his family after being in the United Kingdom that he had converted to Christianity, I find that such submission is not made out. The judge held at [39] that if the Appellant was at an inchoate stage in terms of his faith in April 2015, it was not credible that he would have informed his family that he was practising Christianity. I find that that is a sufficiently clear finding that the judge has rejected the appellant's proposition that he informed his family whilst in the United Kingdom that he had converted to Christianity.
12. In further considering this appeal I find that it is appropriate to set out at least some of the Appellant's evidence given in interview. It is important to make a distinction, I find, between threats said to have been made against him in Pakistan, and threats said to have been made against him whilst he was in the United Kingdom. It was apparent that his family had found out that he had started attending a Christian church before he had left Pakistan - see SEF at B8 question 40. At B7 question 35 he had said:

“Because I told you I used to start going to church with my friend you know, after that my family did not speak. The family stopped me from going with him, but I still want to go to church and they were being strict they wanted me to go to mosque they would beat me. After that I said I don’t want to live here and I said I wanted to go”.

13. It seems to me that there is no other evidence of threats or mistreatment of the Appellant whilst he was still in Pakistan, other than the adverse reaction as described above.
14. It is apparent that he continued to be in touch with his parents and when he first came to the United Kingdom - they continued to support him financially – see B7 question 32.
15. The threats said to have been received in the United Kingdom are set out at B13 question 129 onwards:

“129. Q: What threats have you receive (sic)?

A: They said I am a sinner and they will obviously kill me.

130. Q: Who said that?

A: My own family they said I am not Muslim anymore.

131. Q: Have you ever actually received a threat?

A: When I used to talk to them.

132. Q: What did they actually say?

A: They said they will kill me and other people will kill me.

133. Q: How did you receive these threats?

A: On the phone when I used to talk to them.”

The Appellant also gave the following evidence:

“144. Q: If your problems began in 2011, how did you managed to remain in Pakistan for a further 2 years?

A: It wasn’t that bad they thought I went for fun.

148. Q: But I don’t understand why they would be comfortable allowing you to attend church if you were a Muslim. Can you explain?

A: They thought I was going for fun with my friend.

162. Q: You claim that your problems began in 2011; however your family paid for a visa to the UK in 2013. Why would they do this if they wanted to kill you?

A: They thought I was just with my friend, they thought I would be ok. But I was attracted to Christianity.”

16. Although it is clear that the judge made a negative finding on the Appellant's assertion to be a genuine convert to Christianity in the UK, it does appear that the judge did not make any discreet findings of fact as to whether or not:
- (i) he attended church in Pakistan; and
 - (ii) his family became aware of this and beat him.
17. However, although it would have been desirable for the judge to make specific findings of fact on these matters, I find that the judge did not materially err in law in failing to do so. That is for the following reasons:
- (i) Given the judge's adverse findings on the credibility of the Appellant's claim to have genuinely converted to Christianity, insofar as the judge did not make findings as to events in Pakistan, I find that he would inevitably have rejected the credibility of that part of the Appellant's account, if he had descended into making findings on such matters.
 - (ii) However, in any event, it was not necessary for the judge to make any specific finding as to whether the Appellant attended church in Pakistan and whether there was an adverse reaction from his family as a result, because the Appellant could not properly advance a case that he was at real risk of serious harm solely as a result of those matters, in the light of the evidence I have quoted above. Even though it may have been regrettable if the Appellant's family had beaten him when they found out that he had attended church in Pakistan, even taking the Appellant's evidence at its highest, he continued to reside with his family for several further years, and his family paid for him to come to the United Kingdom to study, and provided financial support during the course of his studies. There is thus nothing whatever to any suggestion that the Appellant would be at real risk of serious harm upon return to Pakistan merely because his family came to know that he had attended church in Pakistan.
 - (iii) Further and in any event, I find that even if it was an error for the judge to fail to make the findings of fact as to the events in Pakistan, the judge would inevitably have dismissed the appeal in any event, even if finding a real risk of harm in his hometown. The Appellant had accepted at B6 question 8 that he had no extended family in Pakistan and at question 14 that he had no other family member in any other areas of Pakistan other than his home area of Zhob. In the light of the judge's finding that the Appellant was not a genuine convert to Christianity, even if the Appellant would have future problems with his own family in the home area of Zhob, there would be nothing preventing the Appellant from internally relocating to another area of Pakistan. He would not, in accordance with the findings made by the judge, be following the Christian faith. He has no other family outside of the Zhob area, and Pakistan is a highly populated country. There was nothing before the judge which would have supported any argument that the Appellant could not internally relocate to Pakistan.
18. However, for reasons set out above, principally the fact that the judge rejected the Appellant's account to have told his family that he had converted to Christianity

(decision, paragraph [39]) I find that there is no material error of law in the judge's decision.

19. Insofar as the appellant challenges at paragraph 8 of the grounds of appeal the judge's decision to proceed with the hearing, rather than to adjourn, this point was not developed with any force before me. Given the judge's observations at [5]-[6] that the appellant had had several months' notice of the hearing, was represented, and had filed a Reply Notice on 3 October 2017 indicating that no additional witnesses were to be called, I find that the appellant has not made out any case that the judge's decision to refuse the adjournment resulted in unfairness to him, as per Nwaigwe (adjournment: fairness) [2014] UKUT 418 (IAC)

Notice of Decision

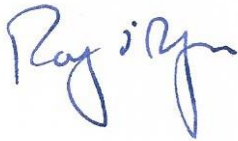
The making of the decision did not involve the making of any material error of law.

I do not set aside the decision.

I dismiss the Appellant's appeal.

Signed:

Date: 23.10.18



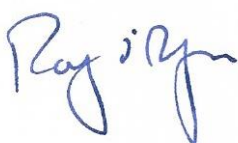
Deputy Upper Tribunal Judge O'Ryan

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

This appeal concerns a protection claim. Unless and until a Tribunal or court directs otherwise, the appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify them or any member of their family. This direction applies both to the appellants and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.

Signed:

Date: 23.10.18



Deputy Upper Tribunal Judge O'Ryan

TO THE RESPONDENT
FEE AWARD

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

Signed

Date: 23.10.18

A handwritten signature in blue ink, appearing to read 'Pádraig Ó Ryan', is written over a light blue rectangular background.

Deputy Upper Tribunal Judge O’Ryan