



**Upper Tribunal
(Immigration and Asylum Chamber)**

Appeal Number: PA/10910/2017

THE IMMIGRATION ACT

**Heard at Field House
On 25th March 2018**

**Decision & Reasons Promulgated
On 12th April 2018**

Before

DEPUTY UPPER TRIBUNAL JUDGE MCCLURE

Between

**TJ
(ANONYMITY DIRECTION MADE)**

Appellant

And

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms A Seehra counsel instructed by of Barnes Harrild & Dyer Solicitors

For the Respondent: Ms Z Ahmad, Senior Home Officer Presenting Officer

DECISION AND REASONS

1. This is an appeal by the Appellant against the decision of First-tier Tribunal Judge Devittie promulgated on the 12th December 2017 whereby the judge dismissed the appellant's appeal against the decision of the Respondent to refuse his protection claim on the grounds of asylum, humanitarian protection and Articles 2 and 3 of the ECHR.

2. I have considered whether or not it is appropriate to make an anonymity direction. Taking that and all of the circumstances into account I consider it appropriate to make an anonymity direction.
3. Leave to appeal to the Upper Tribunal was granted by First-tier Tribunal Judge Doyle on 16 January 2018. Thus the case appeared before me to determine whether or not there was a material error of law in the decision.

Factual background

4. The appellant is a national of Iran. The appellant left Iran illegally on the 19th February 2016.
5. Whilst in Iran the appellant claims to have been introduced into the Baha'i faith by his wife's second cousin. The appellant claims that he became a convert to the Baha'i faith after attending 15 classes about the religion. Further whilst in Iran the appellant claims that he practiced the Baha'i faith at home praying three times a day and attending further classes. The appellant also claims to have attempted to convert a friend to the faith. However the friend reported the appellant's actions to the Basiji and the Basiji came to the appellant's shop to question him.
6. In his screening interview the appellant claimed that the Basiji came to his shop in March 2015 [see page A5]. In the screening interview the appellant claims that a case was made against him for renouncing Islam. The appellant also claimed that he was beaten severely. The appellant was threatened with execution but he refused to name any one that had been involved in his instruction in the Baha'i faith. The appellant's representatives did in a letter dated the 25th June 2017 amend the date of the incident to February 2016.
7. In his substantive interview the appellant claimed the Basiji came to his shop in February 2016 on two occasions, one of which he claims to have been beaten and then escaped from the shop to go home. In dealing with the circumstances in Iran the judge has made specific findings that those elements of the appellant's account were not credible. The judge specifically deals with such at paragraph 7 (i-iv).
8. Since coming to the United Kingdom the appellant claims that he has continued with the Baha'i faith and that he has been attending classes and has therefore converted to the Baha'i faith.

Grounds of appeal

9. The appellant had called Mr Masoud Darab Poor to support his claim to have converted to the Baha'i faith. It was further claimed that there were supporting letters from Ms Jaleh Alaei. It is suggested that the judge has failed properly to take account of the strong corroborative evidence in assessing the appellant's case. It is alleged

that the judge has failed to give anxious scrutiny and failed to give valid reasons for rejecting the evidence.

10. The second challenge to the judgement sets out that there is an error in the approach by the judge and a failure to properly assess the evidence and give valid reasons for the conclusions reached. The challenge in that respect relates to the circumstances of the incident in Iran where the appellant claims he was given opportunity by the Basiji to provide names and addresses of those that were instructing him in the Baha'i faith and others that were involved with the Baha'i faith.
11. It is suggested that the judge has failed to take account of the fact that the authorities in Iran need not necessarily act in a logical fashion. It is submitted that there was nothing illogical in the authorities seeking to extract information from the appellant by way of a voluntary disclosure. It is also asserted that there were other examples of the judge making adverse findings in respect of matters that were not put to the appellant.

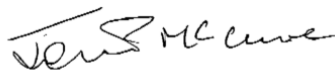
Consideration

12. First and foremost this was a case which related to the conversion of the appellant from Islam to the Baha'i faith. In that respect the principles set out in the case of *Dorodian* 01 TH 01537 as approved in the case of *Shirazi v SSHD* (2003) EWCA Civ. 1562 have to be considered. The case law emphasises the need to call a minister of religion or a person of seniority within a religion to speak to the conversion of an individual. The appellant had only called his friend, as identified in paragraph 4 of the decision, Mr Darab [otherwise referred to as Mr Poor]. Whilst Mr Poor was a convert to the religion there was no evidence that he held a position of seniority or authority. The judge does consider the fact that Mr Poor had converted to the Baha'i faith.
13. The judge goes on within paragraph 5 to consider the fact that there was a letter of support from Jaleh Alaee, a person that appeared to be instructing individuals in the principles of the Baha'i faith. The judge does consider the appellant's activities in pursuit of the Baha'i faith.
14. However the judge found it significant that there was a letter written by the UK Baha'i Centre, which was an organisation coordinating and organising and promoting the Baha'i faith in the United Kingdom. The organisation kept in touch with members of the faith and sought to promote the faith. The letter indicated that they had no knowledge of the appellant whatsoever. The judge pointed out that the appellant had taken no steps to contact the UK Baha'i Centre to question why they had written such a letter. The judge found it significant that the appellant had not sought to contact the main UK Baha'i Centre.

15. The appellant had not called any born in a senior position from the Baha'i faith to give evidence on his behalf. The central authority of the faith in the United Kingdom had indicated they were not aware of the appellant. The judge was entitled to look at the evidence submitted and conclude that the appellant had failed to prove that he had genuinely converted to the Baha'i faith. The judge has given valid reasons for coming to that conclusion.
16. With regard to the second ground of challenge, the grounds constitute nothing more than a disagreement with the findings of fact made by the judge. The judge has examined the evidence and given valid reasons for concluding that he did not find it credible that organisations such as the Basiji would not arrest the appellant and would act in the manner that the appellant has claimed. The appellant claimed that he had sought to promote the faith to another member of the Islamic faith. The judge was entitled to conclude, where the Basiji had clear evidence that an individual had converted from Islam, they would arrest and detain the individual for offences related to apostasy. In the circumstances the judge was entitled to come to the conclusions that he did on the evidence.
17. On the basis of the evidence submitted the judge was entitled to conclude that he did not find the appellant's account credible and that the appellant had not proved that he had converted to the Baha'i faith.
18. The appellant's representative was seeking to adduce further evidence in respect of the appellant's claimed conversion. However on the basis of the evidence that was before the judge the judge was entitled to come to the conclusions that he did.
19. In the circumstances I do not find that there is any error of law in the approach of the judge to the evidence is presented. The judge has given valid reasons for the conclusions reached.
20. In the light of the matters set out the judge has not made a material error of law.

Notice of Decision

21. I dismiss the appeal.
22. I make an anonymity direction



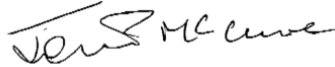
Signed

Date 9th April 2018

Deputy Upper Tribunal Judge McClure

Direction regarding anonymity- rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008

Unless and until a tribunal or court directs otherwise, the appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify the appellant or any member of the appellant's family. This direction applies both to the appellant and the respondent. Failure to comply with this direction could lead to contempt of court proceedings



Signed

Date 9th April 2018

Deputy Upper Tribunal Judge McClure