



**Upper Tribunal
(Immigration and Asylum Chamber)
PA/01641/2018**

Appeal Number:

THE IMMIGRATION ACTS

Heard at Bradford

On 4 December 2018

**Decision &
Promulgated**

On 19 March 2019

Reasons

Before

UPPER TRIBUNAL JUDGE LANE

Between

**MOEIN EBRAHIMI
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Hussain

For the Respondent: Mrs Pettersen, Senior Home Office Presenting Officer

DECISION AND REASONS

- 1.** The appellant was born on 10 June 1997 and is a male citizen of Iran. In a decision dated 19 January 2018, the Secretary of State refused the appellant's application for international protection. The appellant appealed to the First-tier Tribunal which, in a decision promulgated on 19 March 2018, dismissed the appeal. The appellant now appeals, with permission, to the Upper Tribunal.
- 2.** The appellant claims to have converted from Islam to Christianity. He claims to have attended a house church in Iran and has attended church in the United Kingdom since he arrived here. The judge found that the appellant's claimed conversion was not genuine. Consequently, she dismissed his appeal.

3. The appellant challenges that decision. First, he claims that the judge has identified inconsistencies in his evidence where none existed. At [13], the judge wrote:

... in his asylum interview at question 83 [the appellant] was asked whether he was looking for a new faith at the time [he accepted a Bible Christian woman whilst on about in Turkey]. ... His answer was 'if I say no, it's a lie. Because in the back of my mind I was always searching for an answer.' However, paragraph 5 of his witness statement he states, 'I was not actively looking for Christianity when the lady in Turkey gave me the Bible or doing research about it at the time.' I find that these two statements are inconsistent, or at the very least, the latter statement is incomplete as it should have stated that the appellant was not actively looking to Christianity at the time but was searching for an answer relation to a new faith. Only then would his witness statement be fully in line with and consistent with his asylum interview. I find that this inconsistency goes to the core of his account as it would have been a little more plausible for him to have accepted the gift of the Bible in Turkey if he had clearly said that he was searching for looking for a new religion at the time. In other words, it would have been easier to understand his actions on the boat in this context.

4. That finding is problematic. *Prima facie*, the two statements are not inconsistent; there is no clear reason why the appellant should not have been both 'always searching for an answer' but also not 'actively looking for Christianity' when he received the Bible from the woman. I also do not understand why the judge considered it necessary that the appellant's witness statement should be 'fully in line with' his asylum interview. Very often, a witness statement will contain much more detail than an appellant has provided at the asylum interview. Obviously, it may be damaging to an appellant's case if the contents of the witness statement and interview record are inconsistent but the very high level of consistency which the judge appears to demand is not appropriate nor should its absence have led the judge to find that an 'inconsistency' which did not exist should 'go to the core' of the appellant's account. Indeed, that latter statement removes any possibility of viewing the judge's problematic finding discreetly from the remainder of her analysis. I find that the judge has taken an unreasonable point which has infected her entire credibility analysis. In the circumstances, her decision must be set aside. Other findings of fact are not challenged but the extent to which the unlawful finding has influenced the outcome of the appeal cannot be determined so all the findings have been vitiated. There will need to be a new fact-finding exercise which is better conducted in the First-tier Tribunal to which this appeal is now returned to remake the decision. As for the remaining grounds of appeal, I find that this has less merit; the judge's findings regarding the evidence of the clergyman appear to have been open to her on the evidence. However, I make no formal finding in respect of that ground given that the appeal will need to be heard *de novo* in any event.

Notice of Decision

5. **The decision of the First-tier Tribunal is set aside. None of the findings of fact shall stand. The appeal is returned to the First-tier**

Tribunal (not Judge Monaghan) for that tribunal to remake the decision (1.5 hours; Farsi interpreter; Bradford)

Signed

Date 2 March 2019

Upper Tribunal Judge Lane