



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

Appeal Number: PA/02513/2019

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 11<sup>th</sup> July 2019**

**Decision & Reasons Promulgated  
On 5<sup>th</sup> August 2019**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE KELLY**

**Between**

**O K  
(ANONYMITY DIRECTION MADE)**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Miss S Javed, Solicitor

For the Respondent: Mr S Walker, Home Office Presenting Officer

**DECISION AND REASONS**

1. This is the appeal of O K against a decision of First-tier Tribunal Judge Pears, promulgated on the 26<sup>th</sup> April 2019, to dismiss his appeal against the decision of the Secretary of State to refuse his protection claim. I extend the anonymity direction made in the First-tier Tribunal.
2. The Appellant had made two previous applications for asylum. These were based on his claimed fear of persecution on return to Iran by reason of his political opinion. The instant proceedings were concerned with a fresh claim for asylum based on his claimed conversion from Islam to Christianity since his arrival in the United Kingdom. The reasons given by

the judge for not finding that the appellant had failed to substantiate that claim, and thus dismissing his appeal, were short. I shall therefore quote them in full, beginning at paragraph 39:-

- “39. The assessment of faith is a difficult task as belief is a subjective state. It is not for acquaintances or friends to cross-examine an Appellant or reveal concerns. Their primary position will undoubtedly be to give support. As a judge I have a different task to assess the evidence that is before me.
40. I find that there is no evidence of the Appellant being interested in any religion including Christianity before January 2016 despite any contrary claim. I find that there is no evidence of the Appellant being interested in Christianity prior to the refusal of his three attempts to gain asylum based on his political views.
41. It must have been clear to him that that particular road was closed and it became firmly closed in August 2015. Less than six months later he was attending a church and making friends there.
42. He needed to explain how he came to attend the Iranian Christian church and he relied on what I find to be an unconvincing explanation of meeting by chance at a convenient moment in a park a man who provided him with the required detail. There is no evidence from this man.
43. The Appellant is asked information about his faith and whilst I accept he provided correct answers in some cases, in other instances his answers were incorrect. I find he has not explained his understanding of the difference between Islam and Christianity, why he thought he was ready for baptism, or the principles underlying Christianity. His case about proselytising seems to change as he realised (or is advised) that Christian belief is not enough. I have commented on his answer to the number of books in the Bible and it seems to me that a person might well carry out something like a Google search, whereas in my view a true believer might be completely unaware of the number of books as that seems to me to be at the irrelevant to belief.
44. He was unable to explain his decision to go for baptism but I am afraid the obvious answer is that the fact of baptism is a clear marker in the course of an attempt to fabricate a claim based on Christian belief.
45. I have considered the refusal letter and it seems to me that many of points raised by the Respondent have validity.
46. I conclude without hesitation that the Appellant lacks credibility. I find that he is not true convert. I find that he is not true believer.”

3. The Grounds of Appeal are that the judge (a) failed to give sufficient reasons for why he did not find the authors of various supporting letters to be credible witnesses, (b) failed to take account of the breadth and depth of the Appellant’s involvement in various church activities, including his baptism and attendance at various conferences, and (c) insofar as the judge gave reasons for not finding the Appellant credible, they were based

on nothing more than the coincidence of the Appellant's conversion to Christianity following the failure of his two earlier asylum claims that had been based on his political opinion.

4. During the course of discussion with Miss Javed, who so ably represented the Appellant before me, modified the first ground from one that was based on the judge's claimed failure to give any reasons for rejecting the opinion of the authors of supporting letters that the Appellant was a genuine convert, to one based upon insufficient reasons for doing so. She otherwise relied upon the written grounds as pleaded.
5. Starting with the first ground (as modified) it is right to say that the only reasons given by the judge for not attaching substantial weight to the supporting letters are those contained at paragraph 39 (above). In effect, the judge found that whilst the opinion of the authors of those letters was genuine and honestly held, their view had not been subjected to rigorous cross-examination concerning the possibility that the Appellant may have had an ulterior motive for conversion. On behalf of the Respondent, Mr Walker accepted that that was an inadequate reason for the judge's conclusion given the considerable detail provided by the witnesses as the basis for their opinion, which was in turn based upon extensive contact with the Appellant at church, at conferences, and in discussion about religious affairs over a lengthy period. Indeed, Mr Walker went so far as to suggest that the Respondent may well have taken a different view of the appeal had there been a Presenting Officer at the hearing before Judge Pears. Thus, whilst he did not concede the appeal in full, Mr Walker did accept that there was an error of law in the judge's reasoning. He also conceded that the second ground was made out, in that the judge appeared not to have had any apparent regard to the extensive contact that the witnesses had had with the Appellant in determining what weight to attach to their opinion of him.
6. Mr Walker neither conceded nor opposed the third ground of appeal, namely, that the judge ought not to have found that the Appellant's lacked credibility merely because it appeared immediately to have followed the failure of his first two asylum claims. In my judgment, the timing of the Appellant's conversion was a matter to which the judge was entitled to have regard in an overall assessment of the Appellant's motivation for conversion, but it was not of itself a sufficient basis for reaching an adverse conclusion. After all, coincidences can and do occur.
7. I have therefore decided that the decision of the First-tier Tribunal Judge cannot stand and must be set aside.
8. By way of postscript I would like to add that I make no criticism of the judge for being concise. Far too often reasoning is difficult to follow due to its length. However, I conclude that the reasoning on this occasion not merely brief, but also inadequate.

9. I have given anxious consideration to whether it would be appropriate for me to remake the decision in the Upper Tribunal. However, given that I have decided to set aside the entirety of Judge Pears' decision, it seems to me inevitable that this case must now be remitted to the First-tier Tribunal to be heard afresh. In the meantime, the Respondent may wish to review the original decision given the observations made by Mr Walker as mentioned at paragraph 5 (above).

**Notice of Decision**

10. The decision of the First-tier Tribunal Judge to dismiss this appeal is set aside.
11. The appeal is remitted to the First-tier Tribunal to be heard afresh by any judge other than Judge Pears.

**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 him or any member of his family. This direction applies both to the Appellant and to the Respondent. Failure to comply with this direction could lead to contempt of court proceedings.

Signed

Date

Deputy Upper Tribunal Judge Kelly

26 July 2019