



**Upper Tribunal
(Immigration and Asylum Chamber)
PA/04805/2017**

Appeal Number:

THE IMMIGRATION ACTS

**Heard at Bradford
On 15 January 2019**

**Decision & Reasons Promulgated
On 8 March 2019**

Before

UPPER TRIBUNAL JUDGE LANE

Between

**IMRAN SHIRZAD
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Not present or represented

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

DECISION AND REASONS

1. The appellant is a male citizen of Afghanistan and was born on 20 January 1993. The appellant entered the United Kingdom in January 2012 as a student. He returned to Afghanistan between 18 March 2014 10 May 2014. On 27 May 2014, he returned to the United Kingdom and claimed asylum. A subsequent appeal was dismissed March 2015 following refusal of his claim for asylum. He became appeal rights exhausted on 23 July 2015. Further submissions were made and these were accepted as a fresh claim which, in turn, was refused by a decision of the Secretary of State dated 21 April 2017. The appellant appealed to the First-tier Tribunal which, in a decision promulgated on 27 November 2017, dismissed the appeal. The appellant now appeals, with permission, to the Upper Tribunal.

2. At the hearing at Bradford on 15 January 2019, the appellant did not attend nor was he represented. A previous hearing on 27 November 2018 had not proceeded on account of the appellant's absence. On that occasion, Judge Kelly had directed that the appellant be served at his last known address in Leeds and at another address in Leeds which had appeared on the appellant's application for permission to appeal. Those directions were complied with and the appellant was served of both addresses by second class post on 4 December 2018. The circumstances, I am satisfied that the appellant has been served with the notice of hearing and that he has chosen not to attend. Accordingly, I proceeded with the hearing.
3. The grant of permission bears little resemblance to the manuscript grounds of appeal. The appellant's grounds of appeal, which he appears to have drafted himself and without professional assistance, amount to no more than a series of disagreements with findings which had been available to the First-tier tribunal judge on the evidence. The grant of permission by Judge Simpson goes beyond the grounds in search of '*Robinson obvious*' points arising from the decision. Permission to appeal was granted, first because the judge at [31] appeared to apply a higher standard of proof than that required; secondly, because the judge had not made detailed findings regarding the appellant's attendance at church baptism and evangelising but had, instead, moved directly to the question of whether the conversion to Christianity was genuine; finally, judge had failed to consider whether the appellant would be at risk on the basis of imputed religious belief upon return to Afghanistan. Notwithstanding the fact that the appellant was not represented, it is unclear to me why Judge Simpson saw fit to go beyond the pleaded grounds. However, I shall deal with the issues raised by her grant of permission.
4. I do not find that the judge has applied too high a standard of proof. At [9], the judge sets out the correct standard of proof for an asylum appeal. Upon a careful reading of the decision, I have no reason to believe that the judge has departed from that standard. At [31], the judge wrote that, 'I would expect him nevertheless to have been able to give more detail and be more convincing about the core of his claim and his claimed new-found faith conversion baptism is such a significant matter in a person's life.' I do not find the use of the word 'convincing' is anything more than a form of expression; it certainly does not indicate the imposition of a higher standard of proof. The judge has done no more than to indicate surprise at the quality of the appellant's evidence regarding his conversion, given the likely importance of such an event in his life.
5. Secondly, I see no reason why the judge should have made detailed findings about the appellant's religious activities. The judge has adopted an entirely legitimate method of analysing credibility which appears at [26-44] of her decision. She has given clear and cogent reasons for rejecting the appellant's claimed conversion and for attaching only limited weight to the evidence of the witness, Mr Pedro. The judge was entitled to rely on the findings of the previous tribunal in 2015 (see *Secretary of*

*State for the Home Department v D (Tamil) [2002] UKIAT 00702 **). The analysis of credibility is detailed, thorough and legally sound.

6. It is not clear why the appellant should have imputed to him conversion from Islam to Christianity given that his claimed conversion in the United Kingdom is not genuine and there would be no reason for anyone in Afghanistan to be aware of his church attendance in the United Kingdom unless he chose to tell them about it.
7. I find that the judge has produced a thorough analysis. She has had regard to all relevant matters, including findings of the previous tribunal; she has applied an appropriate standard of proof throughout; she has not had regard to irrelevant matters. The resulting decision is not legally flawed for the reasons given in the grounds of appeal, the grant of permission or at all. The appeal is dismissed.

Notice of Decision

8. The appeal is dismissed.

Signed

Date 2 February 2019