



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

Appeal Number: PA/08060/2018

THE IMMIGRATION ACTS

Heard at Field House

On 9 May 2019

**Decision & Reasons
Promulgated
On 16 May 2019**

Before

**DR H H STOREY
JUDGE OF THE UPPER TRIBUNAL**

Between

**MR P B
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mrs S Anzani, Counsel, instructed by Mansouri & Son Solicitors

For the Respondent: Ms A Everett, Home Office Presenting Officer

DECISION AND REASONS

1. I am tasked in this decision with the re-making of the decision on the appeal of the appellant, a national of Iran, against the decision made by the respondent on 12 June 2018 to refuse his protection claim in a decision sent on 22 March 2019 I set aside the decision of Judge Bart-Stewart of the First-tier Tribunal for material error of law. I did not consider that there was any

material error in the judge's adverse findings in respect of the appellant's claims to have been targeted by the regime as a whistle blower or to have earlier been involved in anti-regime demonstration in 2009 or to have then had problems with the intelligence services while he was at university. Those adverse findings were sound. The error I identified was confined to the judge's treatment of the appellant's claim to have been baptised and to have attended church and proselytised in the UK. At para 9, I concluded:

"9. Given my finding that the judge's error was confined to the assessment of the appellant's religious activities in the UK in relation to (i) whether they amount to a genuine conversion; and (ii) how in any event they would be perceived by the Iranian authorities, this case can be retained in the Upper Tribunal. The further submissions can be confined to issues (i) and (ii). The case will be set down for two hours on the basis that there will be at least two witnesses."

2. At the hearing before me, Ms Anzani first called the appellant to give oral evidence. He confirmed that the contents of his two witness statements of April 2018 and September 2018 were true. Cross-examined by Ms Everett, he said that his motivation for attending the Elim Iranian Church a year ago was that he was living in a hostel and having a rough time and felt it would give him peace and quiet. He had chosen a Christian church because when he had visited churches in Armenia and Turkey prior to coming to the UK he had found them peaceful places. Asked what he said when speaking about his faith to others, the appellant said he talked to them about his own life and problems and how he had dealt with them. He talked about his belief in Jesus Christ and the miracles described in the Bible. He believed Christ was God. He had been brought up in a Muslim culture and was taught Islam at school, but the family did not practice Islam and growing up he was not very interested. Asked about his activities in his church, he said that one of them was converting people to Christ. He felt the need to do this because a lot of people were not on the right path and becoming Christian would help. To be seen to be someone who converted you had to live a clean and pure life and obey the 10 Commandments. He believed Islam talked about killing which was wrong.

3. The appellant said he had not studied other religions. Asked why he could not just leave others to live a clean and pure life without Christianity, he said they would not have salvation in another life. Asked what was important to him about Jesus, he said he had lost his father when he was 17 and he felt he now had a father figure to ask for forgiveness if he made mistakes.

4. In reply to questions from Ms Anzani, the appellant said that his activities on Instagram, which was a new idea he had started 2-3 months ago, consisted of posting parts of the bible every morning. This was it was an effective way of getting points across to Iranians in Iran. His Instagram account was public, not private.

5. Asked by Ms Anzani about his activities on behalf of the church outside the church, he said he would help set up tables and distribute leaflets in Croydon and he would also go to the hostel which was nearby to talk to people.

6. Asked if he knew why [AG], who had attended as a witness in his appeal before the First tier Tribunal, would not be here today, he said he knew she had been unable to get time off work. He had asked another church colleague to attend instead.

7. I next hearing evidence from [JH]. He stated in his witness statement that he was one of the leaders of the Elim Iranian Christian Fellowship based in Croydon Community Church. He said he had been instructed to attend as his church's representative by Pastor Rev Milton Danil at this hearing. He knew [AG] was unable to attend because of work today. He had known the appellant since April 2018. The appellant was a regular attender at discussion groups and Bible Study and he was baptised on 24 June 2018. In reply to questions from Ms Everett, he said when church members had introduced the appellant to Christ he was in a very stressed situation and he felt called. The appellant had been very active and he had been mentoring him. It was important to the appellant to talk about his Christianity. For the appellant, like others members of the church, it was important to spread the word of God. Mr [H] said he had been a Muslim who had converted and he believed Christianity was right compared to other religions. He regarded Jesus as God, being part of the Holy Trinity, in which he was second and he had all the attributes of the Father.

8. I then heard from Ms [ZT]. In her witness statements she said she had been a member of the Elim Church for 10 years. She believed the appellant was a model and committed young Christian. She had first met him in April 2018. He was a young member and very willing to help out in anything to do with the church. He had computing skills and helped out a lot with that and was also very welcoming to new young members who attended the church and visited and asked for information. She had seen the appellant proselytise many times. She had seen and heard him describe his faith to new visitors and she had seen how full of hope and faith he was and he introduced Christianity to visitors as having saved him. She had no doubt about his commitment and faith. She was also aware he had visited ill Iranians in hospital on several occasions to give them love and support and comfort.

9. In reply to questions from Ms Everett, she said she had seen the appellant proselytising at small community events and he would sometimes go out to other Iranians to show the way. The Elim Church was almost all Iranian which meant they could speak in Iranian and help each other in suffering knowing they came from a country which did bad things. There were around 30-40 members who attended. All were converts. She had converted 21 years ago.

Submissions

10. Ms Everett for the respondent said she relied on the findings made by the previous tribunal judge as regards the appellant's account of adverse experiences in Iran. No error of law having been found in relation to those findings, she asked that I approach this case on the basis that the appellant had been found to lack credibility in some material parts of his claim.

11. Ms Everett submitted that the two extant issues were: (i) whether the appellant was a genuine convert; and (ii) if not, then whether he would be at risk on return. She said the respondent would have to accept that if I found the appellant to be a genuine convert then he was entitled to succeed, in light of existing Tribunal country guidance and the latest background country information. If I rejected his claim to a genuine conversion, however, I should find that he could return to Iran without danger.

12. She accepted that as regards (ii), the CIPIN evidence (Iran: Christians and Christian Converts (v4.0 March 2018) was not entirely clear, with para 5.2.1 indicating Iranian authorities would know about Iranians attending conferences and seminars but there was no evidence they were watching Iranian Christian churches abroad. Being baptised would not make a difference to perception of the appellant if there was no evidence of proselytizing activity. She did not rely on the refusal letter on this matter because she accepted it did not have anything to say about it.

13. She submitted that as regards (i), however, even though allowance had to be made for the fact that establishing religious convictions was not a straightforward matter and there could be many reasons why people converted, she asked that I find the appellant's account to lack plausibility. She accepted that his evidence was broadly consistent but there was a lack of compelling evidence as to how and why he had converted and his account lacked coherence.

14. Ms Anzani said she agreed with Ms Everett that the issue of conversion was a difficult one but the appellant in this case had produced a detailed account and the respondent's challenges to the appellant's account now seemed to be confined to matters of plausibility which were notoriously elusive. The appellant had given a credible and coherent account of how his family background meant that he was not particularly religious. That meant he had more limited knowledge of the Muslim faith when growing up and made it likely he was less aware of the dangers inherent in a conversion away from that faith. The appellant had shown considerable knowledge of the Christian faith and in interview had shown awareness of many Christian teachings. Whilst it was only relatively recently he had decided to convert, he had a longer standing interest in Christianity. The evidence of the witnesses who had attended to support his case was compelling. They corroborated his account that he had attended the Elim Iranian church regularly and had become an active member who had undertaken proselytizing activities. Ms Everett had conceded that if I was satisfied the appellant was a genuine convert, the appellant was entitled to succeed in his appeal.

15. As regards risk on return, the background country evidence indicated, submitted Ms Anzani, that the appellant was likely to be questioned on return to Iran. Even if his religious activities in the UK are not known to the authorities, he could not be expected to lie about his faith. The Open Door source indicated that the regime was unlikely to differentiate between genuine

and non-genuine converts. The appellant had been baptised in the UK; the respondent did not dispute that. There was a discrimination against Christians prevalent throughout Iran and as someone born into a Muslim family the appellant was a risk of being perceived as an apostate. She reminded me that in my error of law decision I had noted that the CPIN at 8.1.3 stated that:

“The regime is very suspicious of contact with the outside world. The Iranian regime would not explore the validity of a person’s conversion when they return to Iran. It would be accepted at face value. A ‘convert’ who returns to Iran (even if the conversion is not recognised as genuine in the place of conversion such as the UK) may be forced to sign a commitment to return to Islam. This is likely to involve detention and interrogation.”

and that the CIPIN also set out various ways the regime may become aware of a baptism abroad.

16. So far as concerns the issue of whether the appellant’s conversion was genuine, she submitted that the witnesses made clear that he had found solace with fellow Iranians in a Farsi-speaking Christian church. The witnesses all spoke of their belief that he was a committed Christian and also described him as an active church member who undertook proselytizing activities, which several described.

My assessment

17. I have to consider the appellant’s case in light of the evidence as a whole.

18. It is accepted by Ms Everett that if I am satisfied that the appellant is a genuine convert, he is entitled to succeed in his appeal. If I do not so accept, then I have to go on to consider whether he would nevertheless be at risk on return.

19. I shall deal first with the issue of the appellant’s genuine conversion. In relation to this issue, I have had particular regard to his witness statements, his asylum interview and the oral evidence he gave before Judge Bart-Stewart. Ms Everett is entitled to say, as she has, that given my earlier decision finding that the judge was entitled to find the appellant’s account of adverse experiences in Iran lacking in credibility, there is established evidence that the appellant has lied about certain matters and so cannot be treated as someone about whom there is nothing to indicate that they are less than truthful persons. I have also to bear in mind the possibility that the appellant has become involved with Christianity in order to bolster his asylum claim.

20. It is accepted by Ms Everett that the appellant’s evidence regarding his conversion and Christian activities has been broadly consistent.

21. Ms Everett did not seek to argue that his account of his conversion and knowledge of the Christian faith failed to demonstrate sufficient detail. That

represents a different position from that taken by the respondent in the refusal decision who considered that his knowledge of Christianity was very limited and “not commensurate with someone who claims to have researched the religion for approximately 10 years”. The respondent’s refusal letter also noted that the answers he gave at interview to several questions about Christianity were broadly consistent with objective information, but that he was “externally inconsistent” as regards the two most important of the 10 Commandments and that there were several other questions to which the respondent noted the appellant had not given full or accurate answers. The respondent also counted against the appellant that he had not shown any interest in Christianity until he had been in the UK for some seven months. The respondent also considered he had not been able to provide a cogent reason for his interests in Christianity.

22. Nor did Ms Everett seek to argue the point that the evidence of the witnesses did not really tell anything about the impact of his faith on him personally. It may well be that she did not pursue this matter because she recognised the difficulties that could arise if reliance was placed on the absence of evidence of genuine faith, given that well-known limits to our ability in respect of the ‘forum internum’ to “peer into another’s soul”. It was one of the errors of Judge Bart-Stewart that she appeared to require this internal dimension to be evidenced in some demonstrable way.

23. Given that Ms Everett did not pursue any of the concerns voiced by the respondent in the refusal decision, it is difficult to attach significant weight to them, especially given that they were based on what the appellant had said at a time when he had only begun attending the Elim church for a month. I consider it does count against the appellant that even at that early stage he had not been able to show a level of knowledge commensurate with his own claimed interest in Christianity over the past 10 years. I also counted against him, given this claimed interest, that he had not shown any interest in attending a Christian church until seven months after arrival. At the same time, all of the identified shortcomings in his level of knowledge of Christianity are ones consistent with what might be expected of a person whose attraction to Christianity is not primarily doctrinal but experiential. Thus, it was correct of the respondent in the refusal letter to say that the appellant had not correctly identified the two most important Commandments taken in numerical order, but the question that had been put to him did not clarify whether it meant importance in the established learning or importance in the mind of the appellant.

24. It seems to me that Ms Everett’s acceptance that the appellant’s account was broadly consistent and sufficiently detailed reduces significantly the weight to be given to the shortcomings identified at the interview stage, particularly since on more than one occasion the appellant has faced cross-examination during which he was not significantly challenged about these matters. In adversarial proceedings assessment of credibility must take cognisance of the ability of the respondent to effectively or not undermine the appellant’s evidence.

25. Given that Ms Everett puts her case solely on the basis of lack of plausibility, it is clearly of some importance to consider and weigh in the balance the evidence of the witnesses. Since all of the witnesses were members of the same church and on the evidence this church was made up almost entirely of Iranians who had converted, I should state at the outset that I have treated this feature as a neutral factor. There is no evidence to indicate that members of this church work to assist asylum-seekers irrespective of whether they are genuine or not.

26. I have already outlined the evidence I heard from Mr [H], one of the church leaders of Elim Iranian Christian Fellowship, and Ms [T], who has been attending this church for some 10 years. In addition, there was a written statement from Pastor Damil. Pastor Damil wrote at the time that he had known the appellant for seven months and had said he sincerely believed the appellant was a Christian believer. There was also the evidence of [AG]. As recorded by Judge Bart-Stewart, she described the appellant as very enthusiastic to learn his new faith. He asked a lot of questions of the priest and in classes was one of the best students. She had taken a group of 2 or 3 people that went out to hand out flyers and the appellant was always in that group. Two months ago, the appellant had suggested to her that they set up a small library and worship group. She believed the appellant was genuine. She considered it her duty that those who come to the church are 'introduced to Christ and the right path of Christianity'. She considered the appellant a believer when he started attending the church and said Iranians already are quite familiar with Christianity. As faith is personal, she accepted that there is little she could say with regards to the appellant's motives or belief. She could only speak to actions, not whether his actions were genuinely motivated or true expressions of faith. Judge Bart-Stewart had not suggested that he did not accept her evidence as truthful. Judge Bart-Stewart did doubt that this witness was in a position to know whether the appellant was genuine, noting, inter alia, that she had confirmed that she would not know whether he had converted to help with his asylum claim. However, as identified above, I consider it was an unrealistic expectation of witnesses to a conversion to prove the sincerity of a person's inner beliefs. That said, the witnesses in this case were all of the view that the appellant was genuine.

27. Alongside the unchallenged evidence of [AG], before me Ms Everett did not seek to challenge the evidence of either Mr [H] or Ms [T]. Given that her only real basis of challenge to the appellant's account of genuine conversion is the lack of plausibility, this lack of challenge to the witnesses (all saying that the appellant has been an active member who had proselytised and also all saying they consider him a committed Christian), makes it very difficult to attach significant weight to factors relating to lack of plausibility. If such factors pertain to the account he gave of conversion, it was not implausible that, being in an unsettled situation in a hostel, he should turn to fellow-nationals sharing the same language and culture who offered him friendship and fellowship in a Christian context. Given that there was no evidence to show he had ever been a committed Muslim, his decision to move more towards Christianity was again not implausible. The delayed timing of his first contact with the church is

something that could be said to be implausible (and I have earlier weighed that against his account), but if it was prompted primarily by his own situation in the hostel, we do not have enough information to conclude overall that such timing indicated lack of genuine motives.

28. I have to bear in mind that in an asylum appeal the appellant only needs to establish the credibility of his account (in this case his account of genuine conversion) to the lower standard. Given the position taken by Ms Everett, both as regards lack of pursuit of any challenge to the appellant's level or quality of knowledge of Christianity and lack of challenge to the reliability of the witnesses, there is really too little on which I could properly reach an adverse conclusion in the appellant's case. It is true he has been properly found not credible regarding his account of adverse experiences in Iran, but that does not entail that he should be considered untruthful about all aspects of his account. I do not find that the possibility that he may have become involved with Christianity to bolster his asylum claim has been found to be anything more than that - a mere possibility.

29. I am satisfied that the appellant has established to the lower standard that he has genuinely converted to Christianity.

30. Given my findings on the issue genuine conversion, it is not necessary for me to address the further issue of risk on return because Ms Everett accepted that if I found the appellant was a genuine convert, he was entitled to succeed.

31. To conclude:

I have already found that the First-tier tribunal Judge materially erred in law and her decision was set aside.

The decision I re-make is to allow the appellant's appeal on asylum grounds.

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 their 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: 14 May 2019

A handwritten signature in black ink that reads "H H Storey". The letters are cursive and connected, with a distinct loop at the end of the word "Storey".

Dr H H Storey
Judge of the Upper Tribunal