



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: PA/08560/2018

**THE IMMIGRATION ACTS**

Heard at Field House  
On 29<sup>th</sup> March 2019

Decision & Reasons Promulgated  
On 03<sup>rd</sup> April 2019

Before

DEPUTY JUDGE UPPER TRIBUNAL FARRELLY

Between

M A D  
(ANONYMITY DIRECTION MADE)

Appellant

And

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the appellant: Mr S Woodhouse of HS Immigration Consultants

For the respondent: Mr S Walker, Senior Presenting Officer

**DECISION AND REASONS**

Introduction

1. The appellant is a national of Iran who came to the United Kingdom in October 2013. He has made a number of unsuccessful applications to remain. He initially claimed protection on the basis he had been lampooning clerics and officials in Iran and this placed him at risk. He also claimed that en route to the United

Kingdom he experienced a conversion to Christianity. He also refers to keeping a Facebook account which reveals his conversion.

2. His original application was refused and his appeal was unsuccessful. At one stage he appealed to the Upper Tribunal which set aside an earlier decision of the First-tier Tribunal and remitted the matter back. However, the proceedings in the Upper Tribunal were not anonymized and were published on the directory of decisions freely available on the Internet.
3. The appellant made further representations which were treated as a fresh claim. These were refused by the respondent on 20 June 2018. His appeal then came before First-tier Tribunal Judge J L Bristow at Birmingham on 6 August 2018. In a decision promulgated on 10 August 2018 it was dismissed.
4. First-tier Tribunal Judge Bristow heard from a Mr G V from the Christian church the appellant attended. The judge referred to an earlier decision of First-tier Tribunal Judge Ford who rejected his claim about lampooning and concluded he was not wanted by the authorities because of any political opinion. The earlier judge had also rejected his claim conversion. First-tier Tribunal Judge J L Bristow referred to the Devaseelan principle.
5. First-tier Tribunal Judge J L Bristow assessed the evidence about the appellant's conversion. The judge put limited weight upon the evidence of Mr GV who was from the church he attended. Whilst the judge accepted he was genuinely expressing his belief in the appellant but the judge was not satisfied the church had an adequate process of scrutiny.
6. With regard to the published Upper Tribunal decision identifying the appellant, the judge noted it set out his claim including his claimed conversion. The decision records that the claim was not found to be credible. On this basis First-tier Tribunal Judge J L Bristow concluded that even if came to light it would not place the appellant at risk because the claim had been rejected.

### The Upper Tribunal

7. Permission to appeal was granted on the basis the judge failed to adequately assess the risk to the appellant at the point of return because of the published material on his Facebook page and in the Upper Tribunal decision about his claim conversion. AB and Others (internet activity - state of evidence) Iran [2015] UKUT 0257 (IAC) was cited as it covers monitoring of blogging activity.
8. Mr S Woodhouse appeared in the First-tier Tribunal hearing and has continued to represent the appellant now. I was referred to the grounds upon which permission was sought. In terms of the risk from online publications he pointed out the judge had accepted at paragraph 51 of the decision there was publication. The appellant's claim in the Upper Tribunal decision has not been anonymized. Mr Woodhouse argued that this risk was not abated by the argument that the Upper Tribunal rejected the claim. Rather, the claim had been remitted for determination

de novo to the First-tier Tribunal. A further point he developed was the way the judge dealt with the evidence from the church, particularly that of Mr M V. I was referred to the Scottish decision of the Inner House TF and MA v The Secretary of State for the Home Department [2018] CSIH 58 which analysed in detail the assessment of conversion claims and supportive evidence from church members.

9. Mr Walker accepted that the judge did not adequately deal with the risk to the appellant because his name and claimed conversion was in the Upper Tribunal decision. This decision was publicised and was not anonymized. The judge was also rather dismissive of the church representatives. Having heard the arguments advanced he was in agreement that they indicated a material error of law.
10. Having considered the points made I find there should have been a fuller analysis of the likely risk to the appellant at the point of return given the published material. The First-tier Tribunal judge did not have the benefit of the Scottish cases analysing church witnesses. I am in agreement with the parties that the decision does materially err in law and should be set aside. All parties agree the matter should be remitted for a de novo hearing in the First-tier. Mr Woodhouse is in agreement that there is no new evidence in relation to the claim in relation to imputed political opinions. It was therefore agreed that this was not being pursued at the rehearing.

#### Decision.

The decision of First-tier Tribunal Judge Bristow materially errs in law and is set aside. The matter is remitted for a rehearing de novo in the First-tier Tribunal.

Francis J Farrelly  
Deputy Upper Tribunal Judge.  
29<sup>th</sup> March 2019

Directions

1. Relist in the First-tier Tribunal at Birmingham excluding First-tier Tribunal Judge J L Bristow.
2. A Farsi interpreter will be required
3. It is anticipated the hearing will take no longer than 2 ½ hours.
4. The claim about lampooning and associated imputed political opinion is not being pursued.
5. The protection claim now relates to the appellant's claim conversion. There have now been a number of cases in relation to conversions and the use of church witnesses which the parties may wish to consider:
  - (i) Dorodian (Ali) v Secretary of State for the Home Department
  - (ii) SA (Iran) v Secretary of State for the Home Department (Iran) [2012] EWHC 2575
  - (iii) TF and MA v The Secretary of State for the Home Department [2018] CSIH 58.

Francis J Farrelly  
Deputy Upper Tribunal Judge.  
Dated 29<sup>th</sup> March 2019