



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

Appeal Number: PA/09314/2018

THE IMMIGRATION ACTS

**Heard at Field House
On 4 September 2019**

**Decision & Reasons Promulgated
On 25 October 2019**

Before

**UPPER TRIBUNAL JUDGE SHERIDAN
DEPUTY UPPER TRIBUNAL JUDGE JM HOLMES**

Between

**R B
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation

For the Appellant: Ms C Hulse, Counsel instructed by CK Solicitors

For the Respondent: Mr C Avery, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant and her family are citizens of Algeria who claim to be at risk because they are followers of the Ahmadi religion.

The Appellant's Claim and Immigration History

2. It is claimed by the appellant that her husband converted to the Ahmadi faith in 2010 and that she converted in 2014.

3. The appellant claims that her husband was arrested in April 2017 and detained for eighteen hours. She also claims that on 3 October 2017 there was an attempt to kidnap her son from school.
4. The appellant also gave an account of her family suffering harassment and intimidation and it is claimed that the police threatened her husband, warning him that there would be negative consequences if he continued to collect money for the Ahmadi community.
5. In August 2017 the appellant and her husband travelled to the UK for one week (on a visitor visa) leaving their children with the appellant's mother in Algeria.
6. In December 2017 the appellant returned to the UK with her husband (again, as visitors). On this occasion they brought their children. The appellant claimed asylum on 15 January 2018.
7. On 15 July 2018 the appellant's asylum claim was refused. The respondent did not accept that she and her family were Ahmadis.
8. The appellant appealed and her appeal was heard at Taylor House by Judge of the First-tier Tribunal Burnett ("the judge"). In a decision promulgated on 22 May 2019 the judge dismissed the appeal. The appellant is now appealing against that decision.

Decision of the First-tier Tribunal

9. The judge did not find the appellant and her husband to be credible witnesses and rejected their claim to be followers of the Ahmadi faith. He gave several reasons, including:
 - (a) If the appellant and her husband genuinely believed that they were at risk of persecution and death they would not have returned to Algeria following their trip to the UK in August 2017; and they would not have left their children behind when they made that trip.
 - (b) It was not consistent with the objective evidence, which shows harassment and arrest of Ahmadis, that the appellant had not been arrested and her husband was not arrested until 2017.
 - (c) The appellant's evidence was unconvincing and evasive about the practice of her faith in the UK.
 - (d) There was an absence of support and assistance from the Ahmadi community in the UK despite an adjournment previously having been granted in order to obtain such support from the Ahmadi Mosque in the UK.
 - (e) Some of the evidence adduced by the appellant (specifically, threatening text messages and a letter from Algeria) appeared to be contrived and were not explained.

Grounds of Appeal and Submissions

10. The grounds of appeal raise only one issue, which is that the judge erred by failing to recognise that the appellant's account was consistent with the background country information which showed that there had been a significant deterioration in the treatment of Ahmadis in Algeria since 2016.
11. At the error of law hearing Ms Hulse, on behalf of the appellant, sought to expand the scope of the appeal by arguing that the judge's decision was flawed because there was no basis for finding inconsistencies in the appellant's account and the judge had not considered the best interests of the appellant's children. We declined to consider these arguments as they were not in the grounds of appeal and no application was made (either before or at the hearing) for permission to rely on them.
12. With regard to the objective evidence, Ms Hulse argued that the error of law identified in the grounds fundamentally undermined the credibility findings and therefore rendered the decision unsafe.
13. Mr Avery argued that even if the judge misconstrued the objective evidence, it would not have made any difference to the outcome as the judge gave a range of sustainable reasons for his adverse credibility findings. He submitted that the judge was aware that the appellant and her husband had claimed to have undertaken a conversion to the Ahmadi faith in 2010 and 2014 because he referred to this specifically. Equally, argued Mr Avery, the judge was aware that the appellant's case was that they were always living and worshipping discretely from fear, having undertaken a conversion, because of the attitude to apostasy within the general population. Thus their case was not that their problems had only begun in 2016/7, albeit that their evidence was that the nature of the threat faced by the Ahmadi community had then altered.
14. Mr Avery also argued that the judge's approach (as he was entitled to take) was to find that the appellant and her husband's account of their experiences from 2010 onwards was inconsistent with the objective evidence placed before him as to the experiences of the Ahmadi community over this period and that the judge was entitled to find that he was not satisfied that the appellant and her husband would have acted as they claimed to have done in August 2017 if they genuinely believed that their children were then at risk of harm from the specific and targeted attention that they had claimed their family had by then attracted. He submitted that these adverse credibility findings were not the subject of any challenge in the grounds, and nor was the rejection of the appellant's evidence concerning her claim to have received threats on her mobile phone; or the rejection of the incident supposedly confirmed in a letter from MIAS.
15. He also raised that there was no error disclosed, or even asserted, in the judge's approach to the evidence concerning the practice of the Ahmadi faith in the UK by the appellant and her husband and that the judge

described her evidence on this issue as unconvincing and evasive; and he was entitled to have regard to the failure of the appellant to offer evidence from the Ahmadi community within the UK to confirm her conversion, given the size of the Ahmadi community in Algeria, and the lengthy adjournment to the hearing of the appeal that had been afforded to the appellant for that very purpose.

Analysis

16. At paragraph 62 of the decision, the judge stated:

“The appellant and her husband claimed to have converted in 2010 and 2014. They claim they have spent a lot of time with HC, (the appellant’s husband since 2009) and yet it is not until 2017 just shortly before they came to the UK, they the appellant’s husband was arrested. The appellant has never been detained. I do not accept this evidence as credible especially when set against the background evidence which states that the Ahmadi community are subjected to harassment and arrest.”

17. The wording of this paragraph is confusing, but it appears to be stating (as contended by Ms Hulse) that the appellant's credibility was damaged because the account of her husband not being arrested until 2017 despite being an Ahmadi since 2010 (and of her not being detained at any time between becoming an Ahmadi in 2014 and leaving Algeria in 2017) is inconsistent with the objective evidence about harassment and arrest of members of the Ahmadi community.

18. The objective evidence before the First-tier Tribunal indicates that the Ahmadi community in Algeria (comprising of approximately 2000 people) only began experiencing serious difficulties in 2016. For example, an Amnesty International article dated 19 June 2017 states:

"At least 280 Ahmadi men and women have faced investigation or prosecution over the past year, since a wave of arrests began after failed attempts to register and Ahmadi Association and inaugurate a new mosque in 2016".

19. The article also refers to public officials making hateful or discriminatory comments over the past year.

20. Similarly, an article in "The New Arab" dated 26 August 2017 states that Ahmadis worshipped freely (but discreetly) until 2016 when "the government crackdown" began.

21. In our view, the appellant’s claim that she and her family began facing serious difficulties in 2017 (with her husband being arrested in that year) is not inconsistent with the objective country evidence, a part of which is summarised above, which points to 2016 being a turning point for Ahmadis in Algeria. Nor is it inconsistent with the objective evidence that the appellant claims to not have been arrested given that the background evidence indicates that some, but by no means all, Ahmadis have been

subject to arrest. We therefore accept the appellant's argument that the judge erred by failing to recognise that the objective evidence that was before the First-tier Tribunal indicates a deterioration for Ahmadi in (and since) 2016 and that the appellant's account was not inconsistent with this objective evidence.

22. However, we do not accept that this error was material. The judge gave several other reasons, unconnected to the objective evidence, none of which have been challenged in the grounds of appeal, that, considered together, are, in our judgment, clearly sufficient to support the overall credibility findings. These include that:
- a. The appellant was not supported by anyone in the UK Ahmadi community, despite being given a substantial adjournment to obtain such support;
 - b. the appellant and her husband travelled to the UK in August 2017, leaving their children behind in Algeria and then returned to Algeria a week later – actions that the judge considered to be inconsistent with a genuine fear;
 - c. the appellant gave evasive and unconvincing evidence about the practice of her faith in the UK; and
 - d. the appellant adduced evidence, in the form of text messages and a letter, which were not adequately explained and appeared contrived.
23. Given the judge's cogent and clear findings (other than the finding at paragraph 62) which support the conclusion that the appellant and her husband were not being truthful about converting to the Ahmadi faith, we are satisfied that even if the judge had recognised that the appellant's account was not inconsistent with the objective country evidence before him (and had appreciated that 2016 was a turning point for Ahmadi in Algeria) the outcome would have been the same. The appeal is therefore dismissed.

Decision

24. The decision of the First-tier Tribunal does not contain a material error of law and stands.

Direction regarding anonymity - Rule 14 Tribunal Procedure (Upper Tribunal) Rules 2008

25. Unless and until the Tribunal directs otherwise the appellant is granted anonymity throughout these proceedings. No report of these proceedings shall directly or indirectly identify her or her family. This direction applies both to the appellant and to the respondent. Failure to comply with this direction could lead to proceedings being brought for contempt of court.

Signed



Upper Tribunal Judge Sheridan

Dated: 23 October 2019