



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

Appeal Number: PA/11098/2018

THE IMMIGRATION ACTS

**Heard at Manchester Civil Justice Centre
On 21st March 2019**

**Decision & Reasons
Promulgated
On 29th March 2019**

Before

DEPUTY UPPER TRIBUNAL JUDGE M A HALL

Between

**BK
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr J Greer of Counsel instructed by Greater Manchester
Immigration Aid Unit

For the Respondent: Mr A McVeety, Senior Home Office Presenting Officer

DECISION AND REASONS

Introduction and Background

1. The Appellant appeals against a decision of Judge McAll (the judge) of the First-tier Tribunal (the FtT) promulgated on 8th November 2018.

2. The Appellant is a male Iranian citizen born 16th September 1987.
3. The Appellant made an international protection claim in the UK on the basis that he had converted to Christianity and would be at risk if returned to Iran, and his removal from the UK would breach his human rights, protected by the 1950 European Convention.
4. The application was refused by the Respondent on 4th July 2018. The appeal was heard by the FtT on 19th October 2018.
5. The judge did not find the Appellant to be a credible witness. The judge accepted that two members of the church attended by the Appellant had attended the hearing, but did not find that the Appellant had genuinely converted to Christianity. The judge concluded that the Appellant would not be at risk if returned to Iran and his appeal was dismissed on all grounds.

The Application for Permission to Appeal

6. Five grounds were relied upon. It was contended that the judge had materially erred in law in the following ways.
7. Firstly the judge had made a material misdirection in law. The judge had erred at paragraph 29 in finding that the church attended by the Appellant, was opposed to homosexuality, which did not indicate that the church held the beliefs of forgiveness, kindness and love, which were the qualities the Appellant had said had persuaded him to leave Islam and convert to Christianity.
8. Secondly the judge had erred by failing to apply the principles in HJ (Iran) [2010] UKSC 31.
9. Thirdly the judge had erred by taking into account an immaterial fact by concluding that the Appellant displayed a very basic knowledge of Christianity during his asylum interview. It was contended that the Appellant's level of knowledge was not a relevant consideration.
10. Fourthly the judge had erred by acting perversely by reaching a conclusion that it was incredible that a person who has lost faith in the religion they were born into would turn to another religion.
11. Fifthly the judge erred by failing to give adequate reasons for a material finding of fact, in concluding that Facebook evidence was self-serving and unreliable.

Permission to Appeal

12. Permission to appeal was granted by Judge Keane of the FtT. It was found that

“Largely, the grounds amounted to no more than a disagreement with the findings of the judge, an attempt to reargue the appeal and they did not disclose an arguable error or errors of law but for which the outcome of the appeal might have been different.”

- 13.** However Judge Keane found arguable errors of law at paragraph 26 of the judge’s decision. It was arguable that the judge took into account an irrelevant consideration in relation to the Appellant’s very basic knowledge of Christianity, and in finding that it was incredible that a person who had lost faith in the religion in which they were born into would turn to another religion, knowing only the basics of what the new religion stands for. Judge Keane found that in characterising those two aspects as incredible, the judge attached weight to irrelevant considerations. Solely in the respect of those two matters, did Judge Keane find an arguable error of law.
- 14.** Following the grant of permission the Respondent lodged a response pursuant to rule 24 of the Tribunal Procedure (Upper Tribunal) Rules 2008 contending that the judge had given valid and sustainable reasons for rejecting the Appellant’s account and had not materially erred in law.

My Analysis and Conclusions

- 15.** At the oral hearing Mr Greer submitted that the judge had erred for the reasons given in the grant of permission. The judge had applied his own view of what was reasonable which was an error of law. It was submitted that the judge had displayed an inbuilt incredibility at the very beginning of his consideration of the claimed conversion, which was wrong in law, and had infected his other findings.
- 16.** With respect to the Appellant’s knowledge, the judge did not set out what level of knowledge he expected an individual to have. In depth knowledge of Christianity is not required.
- 17.** Mr McVeety relied upon the rule 24 response, pointing out that the Appellant had indicated that he had converted to Christianity because of tolerance, which conflicted directly with the views of the church he had joined in relation to homosexuality, which that church did not accept.
- 18.** I find no material error of law disclosed in the FtT decision for the following reasons.
- 19.** The challenges made to the FtT decision relate in the main to paragraph 26. The judge was entitled to conclude that the Appellant’s credibility was damaged, not just because he displayed a very basic knowledge of Christianity during his asylum interview. The judge noted that the Appellant claimed to have converted to Christianity in August 2017 and that he first knew of Christianity when introduced by his friend towards the end of 2016. The judge found (paragraph 24) that the Appellant had claimed in his asylum interview that he had an interest in Christianity from

the end of 2016, that developed into specific learning about Christianity over a nine or ten month period.

- 20.** The judge noted that a witness who attended from the church in the UK described meeting the Appellant in February 2018, and described his knowledge of Christianity as “basic” and when asked to clarify that response replied that the Appellant was “not very knowledgeable. He knew basic details like praying and love but not more intimate details.” The judge noted that the church witness said he had been told by the Appellant that he had attended a house church in Iran on four or five occasions, though the Appellant’s own evidence was that he had attended the house church approximately twenty times.
- 21.** In my view the judge was entitled to find that the basic knowledge displayed by the Appellant in his asylum interview, was incredible, “given the level of contact the Appellant claims to have had with Christians in the house church in Iran”. This finding was made by the judge at paragraph 26.
- 22.** Ground 4, which contends the judge acted perversely, makes reference to an incorrect paragraph number in the FtT decision, and does not set out what the judge actually found. It was contended that the judge had acted perversely by finding it incredible that a person who has lost faith in the religion they were born into would turn to another religion. This is not the conclusion reached by the judge. At paragraph 26 the judge found “It is also incredible that a person who has lost faith in the religion they were born into would turn to another religion and risk their and their family members lives when knowing only the basics of what the new religion stands for.”
- 23.** The above is not a perverse decision. The judge was entitled to make such a finding, on the basis that the Appellant had failed to explain why he had converted to Christianity in Iran, which would potentially risk his life, and affect the lives of family members, when he knew only the basics of the new religion.
- 24.** The judge was entitled to note the views of the church which the Appellant had joined in the UK. At paragraph 29 the judge notes evidence that homosexual activity is inconsistent with church membership, and the view was expressed that where a member of the congregation is publicly promoting such behaviour, “there is a case for more stringent disciplinary action.” The judge was entitled to find it incredible, that if the Appellant’s motive for turning to Christianity was to find a religion which was more open and compassionate, that he would have joined a church which was so obviously opposed to homosexuality. The judge recorded at paragraph 29 that the Appellant was in fact asked whether he knew the views of the church he had joined in relation to homosexuality and he said he did not.
- 25.** In my view the judge was entitled at paragraph 30 to conclude that the Appellant had failed to provide “a logical reason as to why he would

suddenly become interested in adopting a different religion in the knowledge that if discovered he could be killed by the authorities.” The judge was also entitled to find in that paragraph that the Appellant’s claim to return to Christianity primarily because of its teachings on compassion and forgiveness was not consistent with his church of choice in the UK.

26. The judge did not err by failing to apply the HJ (Iran) principles because the judge did not accept that the Appellant had genuinely converted to Christianity.
27. Regarding Facebook, the judge recorded at paragraph 38 that the Appellant’s representative conceded that Facebook accounts can be manipulated to give the appearance that events have been posted on specific dates when they have not, and can also be removed almost immediately after posting.
28. The decision of the FtT does not disclose that the judge has made any findings which could be categorised as perverse or irrational. The judge has not neglected to consider material evidence, and has not taken into account irrelevant evidence.
29. In my view the judge has carefully and comprehensively examined the Appellant’s account, and reached conclusions open to him on the evidence, and provided adequate and sustainable reasons for those conclusions.

Notice of Decision

The decision of the FtT does not disclose a material error of law. I do not set aside the decision. The appeal is dismissed.

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. This direction is made because the Appellant has made a claim for international protection.

Signed

Date 21st March 2019

Deputy Upper Tribunal Judge M A Hall

TO THE RESPONDENT

FEE AWARD

The appeal is dismissed. There is no fee award.

Signed

Date 21st March 2019

Deputy Upper Tribunal Judge M A Hall