Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: AA/07551/2015

THE IMMIGRATION ACTS

Heard at the Royal Courts of Justice, Belfast	**Decision & Reasons Promulgated**
On 14 February 2020	**On 23 April 2020**

Before

UPPER TRIBUNAL JUDGE STEPHEN SMITH

Between

PP
(ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:
For the Appellant: Ms H. Wilson, BL, instructed by MSM Law
For the Respondent: Ms R. Petterson, Home Office Presenting Officer

DECISION AND REASONS

1. The appellant is a citizen of Iran born on 11 August 1998. He appeals against a decision of the respondent dated 25 April 2015 to refuse his claim for asylum and humanitarian protection made on 23 October 2014. The respondent's decision, and the reasons for it, are set out in a reasons for refusal letter ("the RFRL").

The appellant's case and reasons for refusal letter

2. The appellant arrived in Belfast from Dublin on 16 July 2014, following a journey through the European Union and Turkey from Iran. His asylum claim now has two strands.

3. The first strand is that he is sought by the authorities in Iran for insulting Islam. He claimed to have consumed a large amount of alcohol which led to him urinating on a mosque in his intoxicated state. He was filmed doing so and now faces the death penalty. The appellant claims that a warrant for his arrest has been issued in order to impose the death penalty. The appellant's case is that the background materials demonstrate that the Iranian authorities regularly enforce perceived breaches of the offence of insulting the Prophet of Islam, often using capital punishment. The authorities continue to be interested in him, he maintains. He receives regular updates concerning the authorities' attempts to locate him from his parents in Iran. His foster parents confirm that he has received regular calls from his family with evident bad news, after which his demeanour changed significantly. He reports that he was being given very bad news about the treatment he faces, in the event he returns, during those calls. The approach of the Iranian authorities to those who insult Islam is well established, he contends, meaning that he is at risk of being persecuted upon his return. The Refugee Convention nexus is that he is a member of the particular social group of those perceived to have insulted Islam, and that the persecution will arise on account of the political opinion that will be imputed to him accordingly.

4. The second strand is that the appellant claims to have converted to Christianity since his arrival in the United Kingdom. As part of his journey of faith, he has attended a number of churches, and has since settled on the Windsor Presbyterian Church. He is an active participant in church life and has been baptised. He will be persecuted in Iran for manifesting and sharing his faith, he claims.

5. While the respondent accepts the appellant to be a citizen of Iran, in the refusal letter she did not consider his account of urinating on the mosque to be credible. The appellant's case was that he had attended a party at a friend's home Tehran. He would have been 15 at the time. He consumed a large amount of alcohol and felt sick, making his way home. He ascended the stairs at the apartment block where his family lived and went to check on his pigeons on the roof, as he was aware that he needed to "sober up" before going to see his family. However, while doing so, he was unable to control his need to relieve himself, and urinated off the top of the building, across the road or alleyway below, and onto the adjacent mosque. This incident, he claims, was filmed from the vantage point of the mosque, and the footage – which he has not seen – later led to formal complaints being made against him, resulting in a criminal investigation leading to capital charges being brought.

6. The respondent searched maps of the area in Tehran where the appellant claimed the incident took place but was unable to find an address corresponding to that which the appellant provided. He had been vague concerning the date when this took place, being able only to say he thought it was while the World Cup in Brazil was underway, but that only narrowed down the dates to a range of one month. Given the appellant claimed he had been aware of the need to sober up before returning to the family flat, it was not credible that he was unable to control himself such that he could not find a toilet or even a discreet place to urinate. If he was so inebriated, it is not clear why he made the effort to make his way to the edge of the building, stand there, and urinate in the direction of the mosque, considers the RFRL. Furthermore, the appellant had failed to explain how he would be visible from the mosque, given the events he claimed to have taken place occurred in the middle of the night, when it would have been dark. The appellant's account that the authorities had raided and ransacked his home three days later was not credible; the RFRL considers that, where it the case that the authorities had the interest in the appellant that he claims, they would not have given him the opportunity to evade capture by waiting for three days. The remainder of the account provided by the appellant concerning his departure from Iran lacked detail in the appellant had provided inconsistent answers in his interview, considers the RFRL.

7. Finally, the appellant is still in contact with his parents. They were the recipients of the death warrant issued against him, on his case. Yet he had not provided a copy to the respondent during the interview process.

8. A screening interview took place on 23 October 2014. A substantive interview took place on 2 April 2015.

9. The appellant's claimed conversion to Christianity is a "new matter" and was not considered in the RFRL. Although the presenting officer confirmed to me that the respondent consented to that matter being considered, it is now clear in light of Birch (Precariousness and mistake; new matters) [2020] UKUT 00086 (IAC) at [22] that the ability of the Secretary of State to constrain the matters for consideration by the First-tier Tribunal does not apply to the Upper Tribunal, which is a superior court of record.

Procedural matters

10. This matter has a lengthy procedural history. The appellant's appeal was originally dismissed by First-tier Tribunal Judge S.T. Fox in a decision and reasons promulgated on 4 May 2016. On 18 November 2016, Upper Tribunal Judge Rintoul set that decision aside. Judge Fox decided the case without the benefit of the appellant's bundle, even though at least two copies had been provided to the tribunal, one before the hearing, and another after the hearing. As such, the failure to place the bundle before the judge amounted to a procedural irregularity.

11. The matter was reheard by Judge Farrelly on 2 November 2017, following a delay during which the case was erroneously re-listed before Judge Fox. In a decision and reasons promulgated on 21 March 2018, Judge Farrelly dismissed the appeal. A second error of law hearing took place in the Upper Tribunal before Judge Rintoul who, in a decision promulgated on 10 December 2018, set Judge Farrelly's decision aside, and directed that the matter be reheard in the Upper Tribunal, on the basis that a further remittal to the First-tier Tribunal would not be appropriate.

12. Judge Rintoul began to rehear the appeal on 4 December 2019. Unfortunately, the interpreter booked on that occasion was unsatisfactory, and the hearing had to be aborted. The matter was relisted before me for the appeal to commence afresh.

13. Before aborting the hearing on 4 December 2019, Judge Rintoul was able to hear the evidence of Rev. Ivan Steen, the Minister of Windsor Presbyterian Church, and Professor Norma Dawson, an elder of the Windsor Presbyterian Church, and the former Clerk of Session to the congregation. The appellant currently attends the Windsor Presbyterian Church. Judge Rintoul took detailed notes of their evidence, and his notes were provided to the representatives of the appellant and respondent in advance of the hearing before me. Shortly before the hearing, I arranged for Judge Rintoul's record of proceedings to be circulated to the parties, and they agreed that it was an accurate and sufficiently detailed record of the evidence they gave for me to rely on for my own analysis of the appellant's claimed conversion to Christianity. As set out below, both Rev Steen and Prof Dawson kindly additionally attended the hearing before me, in order to enable clarificatory questions to be put to them.

14. I am grateful to the parties, the representatives, and the witnesses in this case for their flexibility and patience in light of the difficulties they have experienced on account of the unsatisfactory administration of this case by the tribunal.

15. At the hearing, it was common knowledge that a new country guidance case on Christians in Iraq would be promulgated shortly after the hearing. With the agreement of the parties at the hearing, I sought post-hearing written submissions on the impact of PS (Christianity - risk) Iran CG [2020] UKUT 00046 (IAC), which was issued as Country Guidance on 24 February 2020, after the substantive hearing before me, but before the promulgation of this decision. The following directions were issued to the parties on 4 March 2020:

> "Within seven days of being sent these directions, both parties are invited to make written submissions as to the application of PS (Christianity - risk) Iran CG [2020] UKUT 00046 (IAC) to the evidence heard by the Upper Tribunal.
>
> Electronic written submissions are welcome."

16. Ms Wilson drafted a response dated 13 March 2020, which was sent to the Tribunal by those instructing her on 30 March 2020. I will not hold that breach of the directions by MSM Law against the appellant.

17. Regrettably, there was no response from the respondent.

Legal framework

18. The burden is on the appellant to establish that, applying the lower standard of proof, he meets the requirements of the Refugee or Person in Need of International Protection (Qualification) Regulations 2006 ("the Qualification Regulations"). Specifically, the appellant must establish to the above standard that he falls within the definition of "refugee" contained in Article 1(A) of the Geneva Convention, as incorporated into domestic law by regulation 2(1) of the Qualification Regulations. Alternatively, he must demonstrate that he meets the criteria in paragraph 339C of the Immigration Rules to secure a grant of humanitarian protection, and/or that returning him to Iran would breach the United Kingdom's obligations under Articles 2 and 3 of the European Convention on Human Rights.

Documents

19. The appellant relied on a Consolidated Bundle and a Supplementary Bundle. I also relied on Judge Rintoul's Record of Proceedings from 4 December 2019 which, as outlined above, had been agreed by the parties to be an accurate record of the evidence he heard.

20. Ms Wilson provided a helpful skeleton argument and a "schedule of essential paragraphs", setting out which parts of the extensive background materials submitted on behalf of the appellant she relied upon.

The hearing

21. The appellant participated in the proceedings in Farsi, through an interpreter. At the outset, I established that the appellant and interpreter could accurately understand one another and communicate through each other. Fortunately, in contrast to the position before Judge Rintoul, the interpreter provided on this occasion was excellent and plainly had no difficulty in communicating with the appellant in Farsi, and the tribunal, in English.

22. I treated the appellant as a vulnerable witness within the meaning of the Joint Presidential Guidance Note No. 2 of 2010. I was mindful of the need to ensure that any questioning of the appellant had to be fair and non-combative. I took steps to explain the proceedings to him in a way intended to put him at ease.

23. The appellant gave evidence and adopted his statements dated 2 September 2015, 14 August 2017, 22 January 2019, and 27 November 2019. He was cross examined. Rev. Steen adopted his letters of support dated 22 January and 3 December 2019 respectively as his evidence, and Prof. Dawson adopted her letter dated 24 November 2019 as her evidence, and both answered supplementary questions I put to them.

Finally, the appellant's foster parents, Brian Beattie and Ann Beattie, adopted their statements, each of which were dated 7 March 2016 and 14 August 2017. They were cross examined.

24. The proceedings were recorded, and a full note of the evidence may be found in my Record of Proceedings on the tribunal's file. I will outline the salient aspects of the oral and documentary evidence to the extent necessary to give reasons for my findings.

Findings

25. I reached these findings having considered the entirety of the evidence in the case, in the round, to the lower standard applicable to protection proceedings. I did not reach my decision before considering all issues and evidence in the case, including the post-hearing submissions, in the round.

Events in Iran

26. At the outset of my analysis, I recall that the events which the appellant claims to have taken place in Iran occurred when he was 15 years old. On any assessment, the journey that he will have endured in order to get to this country will have been highly stressful, and he is likely to be vulnerable on that account. Although not material to the issues I need to decide, the appellant has given an account of travelling through Turkey to Spain on a false Israeli passport, and later on a false Austrian passport with accompanying fraudulent boarding pass, all of which was arranged by the agent the appellant relied upon for his travel to this country. At the relevant times, he was a child. It is necessary, therefore, to calibrate my assessment of the appellant's evidence by reference to the age he was when the claimed events took place, and to allow a margin for error consistent with the difficulties that many genuine asylum seekers experience when seeking to give an account of persecutory events from which they are fleeing.

27. It is also necessary to recall that judges should be slow to analyse the evidence in a case such as the present by reference to their own, subjective views as to what is likely to be credible or reasonable. My experience is very far removed from that of a 15 year old Iranian schoolboy, and I should not purport to assume detailed knowledge of the inherent likelihood – or otherwise – of events which only the appellant could reasonably be expected to know about.

28. The appellant provided copies of the complaints that were said to have been made by the mosque staff against him and issued to his father. I will assess their reliability in the round, in accordance with Tanveer Ahmed (Documents unreliable and forged) Pakistan * [2002] UKIAT 00439. At this stage, I make the following preliminary observations about the documents. The English translation of one of the complaints at page 19 of the bundle

states that the target of the complaint had "repeatedly and publicly acted despicably towards the sanctity of the mosque and has repeatedly consumed alcoholic drinks and has acted in a despicable manner and thrown rubbish and… [*sic*] at the mosque." The appellant's case is that on a single occasion he urinated at the mosque. He did not say he had thrown rubbish at the mosque. His case was that he consumed alcohol in private, on a single occasion, at a friend's house. Taken at its highest, this document is inconsistent with the appellant's case.

29. The appellant has not provided copies of the execution order he claims was sent to his parents' address. He said in his asylum interview that he had not seen it (Q63).

30. Under cross-examination, the appellant was unable to recall how long it took him to walk to his apartment block from the party. He said that someone feeling ill would not check their watch; they just want to get back home. He said that he urinated from the roof because, all of a sudden, he had the urge to do so. The reason he did not simply urinate on the ground, but did so from the roof, was due to the effects of alcohol, he added. He could not remember how long he was urinating for, saying "you never measure how long it takes you to urinate". I have some credibility concerns about the lack of detail in these answers. In relation to the length of the journey home, and the length of the claimed urination, the answers provided by the appellant seemed to be defective, that is to say they refuse to engage with the substance of the question, but rather challenged the question itself.

31. In response to questions from me, the appellant said that he could not recall how close the mosque was to his parents' building. He said that it was over the alleyway, then adding that it was around three to four meters away. While reminding myself of the need to be careful when assessing the inherent likelihood of events that happened in a very different culture in a land a considerable distance away, I have significant credibility concerns with the appellant's case that he, as a 15 year old boy, could urinate across an street of some three to four meters, on to one of the entrances to the mosque. Ms Wilson submits that there is no expert evidence concerning the likely flight trajectory of the appellant's urination. That is true. But this is the appellant's case to prove, albeit to the lower standard, and he would have been able to adduce expert evidence to support his otherwise incredible account.

32. The appellant's foster parents, Mr and Mrs Beattie, each gave evidence that the appellant's regular contact with his parents in Iran resulted in the appellant receiving what appears to have been distressing news. The appellant claims his parents telephoned with news of the authorities' continued interest in him. His case is that his father was detained on one occasion, when the authorities came looking for him.

33. At paragraph 6 of her statement dated 14 August 2017, Mrs Beattie writes that on 1 August 2014 (that is, shortly after the appellant's initial

placement with them) the appellant took a phone call from his uncle, and reported that his uncle had told him that the police had taken his father away and wanted to know where he, the appellant, was. On 29 August 2014, Mrs Beattie states that the appellant's mother informed him that his father had been released from detention, upon the payment of a bribe. On 22 October 2014, the appellant's mother informed him that a friend of his was due to be hanged. A similar telephone call took place on 1 June 2016, writes Mrs Beattie, concerning the court documents which related to the execution order issued against the appellant. Mr Beattie gives a similar account: see paragraph 10 of his statement dated 14 August 2017. Consistent with the requirements imposed upon them as foster parents, the Mrs Beattie recorded the conversations in a diary, copies of which have been produced to the Tribunal.

34. There was no challenge to this aspect of either Mr or Mrs Beattie's evidence by the respondent; they were each invited by the presenting officer to confirm their accounts. Mr Beattie was asked about a discrepancy in the date he gave for one of the incidents, which he stated at paragraph 10 his August 2017 statement took place on 1 August *2015*, whereas the corresponding diary entries, referred to accurately in paragraph 10 of the statement, concern 1 August 2014, which is consistent with Mrs Beattie's evidence, and that of the appellant. Nothing turns on the discrepancy. It is clearly a typo.

35. While there is no requirement for corroboration in international protection claims, where documentary corroboration would reasonably be available, the claimant can be expected to provide it. This appellant has not provided copies of the execution order he claims to have been issued against him. He is in contact with the people who claim to have received and viewed the document, namely his parents and uncle. In his evidence, he has not responded to the concerns set out in the RFRL that he has not provided the document, even though it would have been straightforward to do so. Alternatively, he has not explained why he has not provided the document. This is a significant feature. While I accept Ms Wilson's submissions that the background materials do indeed demonstrate that those who are perceived to have insulted Islam, or the Prophet Mohammed can be at risk of capital punishment, the question for my consideration is whether the appellant is wanted for those offences, not merely whether, in principle, a person wanted for such crimes would face such a risk.

36. The appellant's case was that his parents had to move house as a result of the interest of the authorities in him, yet he also claimed that they only moved to the next road. It is not credible that the appellant's parents would move to the next road in the same neighbourhood if they sought to evade the adverse attention they were attracting on the appellant's account. Again, I remind myself of the need to be cautious before purporting to re-characterise what is reasonable in the appellant's claim, but on any view flight from risk as deadly as that the appellant claims to face would take the appellant's parents further than a street away.

37. In light of my overall assessment of the evidence in the round, and the inconsistency between the mosque complaint documents and the appellant's case, I find the documents the appellant provided from the mosque to attract little weight.

38. Drawing the above analysis together, I find that the appellant did not urinate as claimed on the door to the mosque. Even taking account of the need to calibrate my assessment of his evidence by reference to the appellant's vulnerability, his age at the time, and the need to be cautious when making assumptions about the inherent likelihood of events which have taken place in a very different context, I do not find the account that he has given to be credible. I do not accept that it would be possible for the appellant urinate for such a distance, and with such accuracy so as to hit the door to the mosque, three to four meters away, from three stories up. I find the lack of detail in the account he provided, the inconsistencies between his case and those documents he has provided, and the unwillingness he demonstrated during his evidence to provide answers to the questions put to him, as evidenced by his challenge to the premise of the questions put to him, rather than simply admitting that he did not know the answer, to undermine the account that he gave.

39. Before reaching this view, I considered whether the evidence of Mr and Mrs Beattie operated to render credible an otherwise incredible account. I do not consider that it has that effect. It is clear that the appellant's family in Iran have had some form of distressing news (or purportedly distressing news) to pass onto the appellant. I accept that Mr and Mrs Beattie were sincere, and therefore accurate, in their evidence that the appellant seemed genuinely distressed. Whatever the distressing news was that the appellant received, it was not, I find, genuine news in relation to the authorities' interest in him for insulting Islam. At the time he received the initial distressing phone calls from his family, the appellant would have been a child who had endured a horrific journey to the United Kingdom, which required him to use two different false documents, following periods under the control and direction of people smugglers. He had just arrived in a foreign land, and had been placed under the care of Mr and Mrs Beattie, following a period of uncertainty during which it was not clear whether the local authority in Belfast would take responsibility for him, or in Glasgow, where his maternal uncle lives. Under the circumstances, I find that it is hardly surprising that the appellant was distressed, even to a significant extent, upon contacting his family. The appellant's family had clearly gone to considerable lengths, and great expense, to facilitate his exit from Iran, journey through Europe, and eventual arrival in the United Kingdom. It is also entirely possible that they have equipped the appellant with a persecution narrative which the appellant believes to be true but which, for the reasons set out above, is not.

40. In conclusion, therefore, the appellant's account of what took place in Iran is not credible. I find that the appellant is not reasonably likely to face being persecuted upon his return on account of having insulted Islam through urinating on the mosque.

41. I do not consider this finding to affect the appellant's overall credibility. The claimed events took place when he was very young, and he is clearly vulnerable. Much of his case is based on what he has been told by other people about the consequences of what he did, and he may well have been being misled by them in order to mount an asylum claim in this jurisdiction, without knowing it.

Conversion to Christianity

42. In contrast to the account the appellant provided of the events which he claims took place in Iran, the account the appellant has provided of his conversion to Christianity is detailed, compelling, and supported by two witnesses from his current church. It is also supported by the evidence of Mr and Mrs Beattie.

43. The account provided by the appellant appears to have evolved in detail and Christian maturity in the two and a half years which have passed since he first wrote about his conversion in his statement dated 14 August 2017. At paragraph 41 of that statement, the appellant spoke about feeling at peace spiritually through attending the Thriving Life Church in Newtownards. In his statement dated 22 January 2019, the appellant provided further details. At paragraph 5, he wrote that Islam was not the right expression for his spirituality. At paragraph 7, he wrote that he was unable to explore other religions in Iran, which is consistent with the background materials concerning the suppression of proselytization by other religions in Iran. At paragraph 12, the appellant wrote that Christianity had made him happy, and that he wanted to tell other people about God's word and Jesus Christ. In a further statement dated 27 November 2019, the appellant wrote that Christianity had made him feel "free". He wrote of being "newborn [*sic*] in Christ… I am a new person." In my view, the appellant's evidence concerning his conversion has evolved, as would be expected in the life of a new Christian coming to terms with their new-found faith; what began as a more accurate expression of the appellant's perceived inner spirituality, culminated in the appellant professing to be reborn in Christ, which reflects the Christian doctrine of regeneration and rebirth.

44. Under cross-examination, and in response to questions from me, the appellant explained that one of the reasons he believes in the Christian faith is because "Jesus Christ sacrificed himself for us". Again, that is an accurate reflection of the Christian doctrine of substitutionary atonement, which is at the heart of the message of forgiveness upon which Christianity is based. He explained that he had changed elements of his lifestyle, for example going to nightclubs and drinking, and engaging in prayer. This reflects the Christian expectation of repentance and change which must accompany claimed conversion.

45. In isolation, the appellant's self-professed conversion accounts may not be sufficient to demonstrate that it is reasonably likely that he has converted to Christianity. The evidence of Rev Steen and Prof Dawson, in

writing, and in person before Judge Rintoul and myself, was detailed and compelling. When the appellant's evidence is placed alongside their evidence, I find it is reasonably likely that the appellant has converted to Christianity.

46. On 22 January 2019, Mr Steen wrote that he had known the appellant for "some time", but that he had been attending the Windsor Presbyterian Church for around 3 to 4 months. The general thrust of this letter is that the appellant was, at that stage, a person claiming to have converted, but in the early stages of their faith. Mr Steen wrote that the appellant was, at that point, attending an Alpha course and exploring the future possibility of baptism. He wrote that he had seen nothing to undermine the appellant's claim of genuine conversion.

47. On 3 December 2019, Mr Steen wrote a supplementary letter, concerning the progress in the appellant's faith. By this point, the appellant had completed the Alpha course, and had "really began to understand and ask questions of the Christian faith." He had maintained excellent attendance at church, been baptised (described as a "big celebration with many of his local family present and friends"). He was assisting with Farsi translation at church meetings. The tone of Mr Steen's first letter was optimistic; the tone of his second letter, nearly a year later, was confident: "I am very happy to commend him as a Christian".

48. In cross-examination before Judge Rintoul, Mr Steen accepted that there was a social element to the appellant's initial interest in the Windsor Presbyterian Church, which features large numbers of Persian believers. However, Mr Steen said that he was particularly encouraged by comparing the contents of his January 2019 letter with the progress the appellant had made by the time he wrote the December 2019 letter. He said that he had not made it easy for the appellant, whom he had seen weekly for prolonged periods. He added that he had not made the process of acceptance as a believer within the church congregation easy for him and had actually been "quite hard" on him. He had attempted to be rigorous. Mr Steen accepted that there are no "fool proof" processes, but that it would be difficult for the appellant to feign true conversion over a significant period, to a number of people. There are individuals within the church who are there for social reasons, but the appellant was not one of them. The appellant is not the finished article, added Mr Steen; he himself had been a Christian for 35 years, and it was a journey.

49. Before me, Mr Steen explained that the appellant has begun to engage in public prayer in the church congregation, and that he understands the imperative of sharing his faith. The appellant has begun to bring a young woman from a Catholic background with him to church, and Mr Steen considered that that was evidence that the appellant is looking to share his faith with others. The appellant has started to take part in an eight week course on the practices of Christianity, which is for the entire congregation.

50. Prof Dawson's letter dated 24 November 2019 explained that she previously served as the Clerk of Session to the church, a position of responsibility which required her, amongst other matters, to develop guidelines to be followed in asylum cases. She wrote that the purpose for doing so was to accept candidates for baptism without the church being used solely to boost the chances of asylum applicants. She wrote that the appellant engaged actively in discussion during the Alpha course, and that at his baptism he made a credible and very personal expression of faith in English. The appellant still has a young faith but once to live his life by it. Prof Dawson concluded by stating that the appellant wants to learn and to live his life by his new faith, "of this, I have no doubt", she concluded.

51. Under cross-examination before Judge Rintoul, Prof Dawson said that the church asylum protocol prevents asylum seekers from being baptised until at least the first Home Office decision has been issued. The purpose, she explained, was that the church did not want the availability of baptism to be used to improve asylum claims. Even after baptism, there is a delay before somebody can be a "communicant member", which means having a vote in church affairs. The purpose of that delay, she explained, was for the church to ensure that the behaviour of newly baptised converts was consistent with the profession of faith they made in their baptism. The church had some experience of people claiming to be Christians and disappearing following a successful grant of asylum, or for other reasons. The church was alive to the need not to allow itself to be used by people making spurious claims to be Christians. In relation to this appellant, she did not consider that he was a fraud. He was straightforward, and honest, she said.

52. Bearing in mind the lower standard of proof applicable to these proceedings, I find that the evidence of the appellant, his foster parents – who each wrote of the appellant's involvement in different churches, culminating in the Windsor Presbyterian Church – and, crucially, the two church witnesses, all combines to lead to the conclusion that it is reasonably likely that the appellant is a Christian. The evidence of Mr Steen and Prof Dawson was credible and compelling. I have no basis to conclude that they are mistaken, which would entail finding that the entire process of engagement by the appellant with the church had been in order feign genuine belief in circumstances where there was no underlying faith (see, for example, TF v Secretary of State for the Home Department [2018] CSIH 58 at [60] for a discussion of that phenomenon). Moreover, the appellant would have had to have engaged in such deception in a sufficiently convincing manner so as to evade detection by the robust processes put in place by the Windsor Presbyterian Church to prevent false claims of conversion being used as a means to bolster a protection claim. I have no reason to doubt the sincerity or, crucially, the accuracy of the evidence of Mr Steen and Prof Dawson. It is to their credit that they were willing to attend the tribunal on the second occasion in support of the appellant, despite the personal inconvenience which doing so entailed (as demonstrated by an pre-hearing application to adjourn the proceedings to

accommodate their availability, which was refused, thereby necessitating their attendance on 14 February 2020 at personal inconvenience).

53. In an unchallenged passage of his witness statement dated 27 November 2019, the appellant wrote that, "Telling people about the Word of God is very important to me. I couldn't do this in Iran." This chimes with what Rev. Steen said about the appellant's commitment to sharing his faith; as mentioned in paragraph 49, above, the appellant understands the "imperative" of sharing his faith. He has begun to do so by bringing a girl from a non-protestant background to church, which, in the Northern Ireland context, explained Rev. Steen, crosses both cultural and religious divides. I accept this aspect of the appellant's evidence. I find that he wants to share his faith at the moment, and that he would want to do so in Iran, because "telling people about the Word of God is very important to me."

54. The appellant's unchallenged evidence was that he has changed his lifestyle since his conversion to Christianity. He has stopped going to clubs and getting drunk. He is prayerful. He is part-way through an eight week discipleship course which, as Rev Steen explained, covers many aspects of Christian life and disciplines. I accept this evidence.

55. The overall picture of the appellant that emerges, when assessed to the lower standard, is of a young man who has genuinely converted to Christianity. His changed lifestyle matches his profession of faith, and he seeks to tell others about his faith and the claims of Christianity. He would want to do that in Iran, but he "couldn't", if he were returned.

Risk analysis

56. The country guidance applicable to my findings in PS (Iran) is as follows, at point 3 of the Headnote:

> "Decision makers should begin by determining whether the claimant has demonstrated that it is reasonably likely that he or she is a Christian. If that burden is discharged the following considerations apply:
>
> i) A convert to Christianity seeking to openly practice that faith in Iran would face a real risk of persecution.
>
> ii) If the claimant would in fact conceal his faith, decision-makers should consider why. If any part of the claimant's motivation is a fear of such persecution, the appeal should be allowed.
>
> iii) If the claimant would choose to conceal his faith purely for other reasons (family pressure, social constraints, personal preference etc) then protection should be refused. The evidence demonstrates that private and solitary worship,

> within the confines of the home, is possible and would not in general entail a real risk of persecution.

57. The appellant's faith is manifested in his community, not in private. It takes place at church and across the religious and sectarian divides in Northern Ireland, as demonstrated by him bringing his Catholic background girlfriend to his Protestant church. Rev. Steen explained that a person identifying as Catholic in Northern Ireland does not necessarily mean that they are a Christian; it can be a cultural identification, with significant baggage. I accept that evidence. I find to the lower standard that the appellant understands the imperative of sharing his faith and has written that he would want to do so in Iran, as outlined above. Rev. Steen explained, in response to a question from me, that the Windsor Presbyterian church is constantly trying to give people the opportunity in their lives to express their Christian faith. Nothing in the evidence or submissions leads me to conclude that it is anything other than reasonably likely that the appellant would seek to do the same in Iran, but for the general persecutory environment which would have a significant deterrent effect.

58. In my view, the appellant seeks to practice his faith openly in Northern Ireland and would want to do so in Iran. As he wrote in his 27 November 2019 statement, he "couldn't" do that in Iran. I take that to mean that he would be prevented, either through the force of law (as demonstrated by the extensive background materials submitted on his behalf), or through the fear of the force of the law. There is nothing in the evidence, and no submissions from the respondent, to suggest that the reason the appellant "couldn't" share the Word of God in Iran is anything other than the fear of persecution.

59. The atmosphere in Iran is one of deliberate intimidation and oppression of Christians, as confirmed by the findings in PS (Iran). The reception that would await the appellant, as a genuine convert, is one of "serious difficulties": see [111]. The appellant would be asked to sign a written denouncement of Christianity, once it became clear through the inevitable questioning that he will be subject to upon his return that he is a Christian. If he refuses to recant, he will be "on the road to martyrdom"; if he buckles under the pressure and, despite his convictions, signs the declaration, he will be under surveillance, and would lose the ability to practice his faith in any event, and, having been subject to the requirement to denounce his faith, will have been forced to "surrender the very protection that the [Refugee] Convention is intended to secure him" (HJ (Iran) [2010] UKSC 31 at [110], as cited at [128] of PS (Iran)).

60. I find that, if the appellant were to suppress his faith in Iran, it would be on account of the persecution that he fears. Nothing in the submissions made by the respondent at the hearing, or through her non-compliance with my directions afterwards, leads to the opposite conclusion, when assessed to the lower standard.

61. I find that the appellant has a well-founded fear of being persecuted on account of his religion in Iran. Accordingly, he satisfies the definition of "refugee" in the Qualification Regulations, and this appeal is allowed on asylum grounds.

62. In light of the above findings, the appellant's alternative humanitarian protection appeal falls away, and consideration of any Article 8 ECHR rights he may otherwise enjoy is otiose.

Notice of Decision

This appeal is allowed 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 *Stephen H Smith* Date 22 April 2020

Upper Tribunal Judge Stephen Smith

NOTIFICATION OF APPEAL RIGHTS

1. A person seeking permission to appeal against this decision must make a written application to the Upper Tribunal. Any such application must be **received** by the Upper Tribunal within the **appropriate period** after this decision was **sent** to the person making the application. The appropriate period varies, as follows, according to the location of the individual and the way in which the Upper Tribunal's decision was sent:

2. Where the person who appealed to the First-tier Tribunal is **in the United Kingdom** at the time that the application for permission to appeal is made, and is not in detention under the Immigration Acts, the appropriate period is **12 working days (10 working days, if the notice of decision is sent electronically).**

3. Where the person making the application is in detention under the Immigration Acts**, the appropriate period is 7 working days (5 working days, if the notice of decision is sent electronically)**.

4. Where the person who appealed to the First-tier Tribunal is **outside the United Kingdom** at the time that the application for permission to appeal is made, the appropriate period is **38 days (10 working days, if the notice of decision is sent electronically).**

5. A "working day" means any day except a Saturday or a Sunday, Christmas Day, Good Friday or a bank holiday.

6. The date when the decision is "sent' is that appearing on the covering letter or covering email