



IAC-AH-SAR-V1

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

Appeal Number: PA/09620/2019

THE IMMIGRATION ACTS

**Heard at Bradford
On 25 November 2020**

**Decision & Reasons Promulgated
On 07 December 2020**

Before

UPPER TRIBUNAL JUDGE LANE

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

RA

(ANONYMITY DIRECTION MADE)

Respondent

Representation:

For the Appellant: Mrs Pettersen, Senior Home Office Presenting Officer

For the Respondent: Mr Hussain.

DECISION AND REASONS

1. I shall refer to the appellant as the 'respondent' and the respondent as the 'appellant', as they appeared respectively before the First-tier Tribunal. The appellant was born in 2000 and is a male Kurdish citizen of Iran. The appellant arrived in the United Kingdom in November 2018 as an unaccompanied 16 year old. His claim for asylum was rejected by the Secretary of State and the appellant appealed to the FTT which, in a decision promulgated on 22 November 2019, allowed the appeal. The Secretary of State now appeals, with permission, to the Upper Tribunal.

2. The appellants claim is based on his account of involvement with his uncle's house Christian church in Iran. The church met in secret and, on two occasions, at the appellant's home in 2018. The appellant became interested in Christianity as a result of attendance at church meetings. In the autumn of 2018, one of the members of the group had been arrested and he had provided particulars of meetings to the Iranian authorities. As a consequence, the appellant's uncle had been arrested. The appellant claims that the authorities also came to his own home after details of the appellant's involvement with the church had been made known to the authorities. The appellant claimed that he then left Iran on 24 October 2018 before he was apprehended.
3. There are two grounds of appeal. First, the respondent argues that the appellant should not have been found by the judge to have been a genuine convert to Christianity. The appellant does not claim to have been baptised and could not remember the days upon which his conversion had occurred. The appellant was unable to provide any reason or motivation for his religious conversion other than a sense of obligation towards his uncle [interview, Q55]. The appellant had enjoyed an opportunity to explore Christianity in a safe environment whilst in United Kingdom but had failed to do so. The respondent argues there was no evidential basis for the judge's finding that the appellant was either genuine Christian convert or that he faced a future risk upon return to Iran. The grounds also argue that the judge's finding that 'returning [to Iran] will cause problems if the convert has been known by the authorities before leaving [26]' is inadequately reasoned. There is also no reason as to why the appellant's family in Iran could not have sent him a copy of the rest warrant which the appellant asserts has been issued against him. The appellant had also failed to prove that he had left Iran illegally. There would be no need for the appellant to lie to the authorities on arrival as he would 'simply be returning [as] following a bogus asylum therefore his rights...under *HJ (Iran) [2010] UKSC 31* would not be breached.'
4. The judge was aware that the appellant had only very brief involvement with the church run by his uncle. The judge noted certain inconsistencies in the appellant's evidence. First, the appellant had said at interview that he had been uncertain regarding the dates upon which certain events had occurred. I note that the judge found that it was not credible that the appellant had left Iran on the day of the raid of his parents' house because it would 'take time to make arrangements to leave.' [22] However, the judge had found [23] that '[on] the evidence as a whole and taking into account the appellant's immaturity, I concluded the appellant is a Christian even though you in the faith and uncertain about its practices.' At [27], the judge accepted 'the appellant is not an evangelist, [but] he is connected to his uncle's house group and he became a person of interest. On balance, I conclude that it would not be reasonable for the appellant as a Christian convert to return to Iran.'
5. The judge's findings are in some respects problematic. The judge was not required to determine whether it would be 'reasonable' for the appellant

to return to Iran but whether he would face a real risk of ill-treatment. The finding that the appellant is a 'person of interest' should perhaps have been supported by more detailed reasoning although I accept that this is an unequivocal finding that the appellant's account regarding the arrest of his uncle and, crucially, the raid of the authorities on the appellant's own home was accepted by the judge as being true and accurate. I also find no error in the judge's finding that the appellant has given sound reasons for not having become involved in Christian worship whilst in United Kingdom. I reminded (as the judge also correctly reminded himself) that the appellant was, at the time of his entry to the United Kingdom and remains was a very young man. In that context, the judge's finding at [20] that the appellant had not attended Christian services because of his difficulty understanding English is, in my opinion, sound and I see no reason to interfere with it. More generally, I am aware that I should hesitate before interfering with the findings of fact of the First-tier Tribunal which, unlike myself, had the opportunity to hear oral evidence from the appellant himself. Moreover, as the judge records, the appellant's account was consistent with background material concerning Christian worship in Iran. Although the term is not used, the respondent is, in effect, arguing that that the judge's findings were perverse. Whilst acknowledging the brevity of the reasons provided, I am unable to conclude that the findings of fact of the judge could not rationally have been reached on the evidence.

6. The judge made it clear that he found the appellant credible as to the core of his account. If one considers the claim of the appellant leaving aside the claim that his uncle was arrested and that the appellant's own home had been raided, then it would be difficult to conclude that the appellant's brief and not very deep association with Christianity would engage the principles of *HJ (Iran)* [2010] UKSC 31 at all. The judge also found that there was no evidence that the appellant would proselytise his Christian beliefs upon return to Iran. The only finding of the judge upon which a claim for international protection could succeed is that relating to the arrest of the uncle and the raid on the appellant's home. Again, it would have been better if the judge had made detailed findings, but it is clear that the judge has accepted that the appellant would be known to the Iranian authorities irrespective of what may be asked at interview when he returns to Teheran (*'he became a person of interest'*). Notwithstanding the fact that the appellant had not produced any arrest warrant, it was open to the judge to believe that this part of the appellant's account is consistent with the background materials concerning risk on return. It is possible another judge, faced with the same evidence, would have reached different findings. However, that is not the point. Despite the problems with this decision, I can identify no reason, as advanced in the grounds or otherwise, to set aside the judge's findings of fact. The question of the genuineness or otherwise of the appellant's conversion to Christianity is not material given that the judge found the appellant would be known to the Iranian authorities immediately upon his return to Iran and would, in consequence, be exposed to a risk on return of harm. I dismiss the Secretary of State's appeal.

Notice of Decision

This appeal is dismissed.

Signed
2020
Upper Tribunal Judge Lane

Date 27 November

Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008

Unless and until a Tribunal or court directs otherwise, the appellants are granted anonymity. No report of these proceedings shall directly or indirectly identify them or any member of their family. This direction applies both to the appellants and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.