Upper Tribunal
(Immigration and Asylum Chamber) **Appeal Number: PA/00663/2021**
[UI-2021-001107]

THE IMMIGRATION ACTS

Heard at Field House, London	**Decision & Reasons Promulgated**
On Friday 11 March 2022	**On Monday 25 April 2022**

Before

UPPER TRIBUNAL JUDGE SMITH

Between

DP
[ANONYMITY DIRECTION MADE]

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Anonymity
Rule 14: The Tribunal Procedure (Upper Tribunal) Rules 2008
An anonymity order was made by the First-tier Tribunal. This is an appeal on protection grounds. It is therefore appropriate to continue that order. 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, amongst others, to both parties. Failure to comply with this direction could lead to contempt of court proceedings.

Representation:
For the Appellant: Ms I Mellor, Counsel instructed by Duncan Lewis, solicitors
For the Respondent: Mr E Tufan, Senior Home Office Presenting Officer.

DECISION AND REASONS

BACKGROUND

1. The Appellant appeals against the decision of First-tier Tribunal Judge Quinn promulgated on 17 August 2021 ("the Decision"). By the Decision, the Judge dismissed the Appellant's appeal against the Respondent's decision dated 25 June 2020 refusing his protection and human rights claims.

2. The Appellant is a national of Iran. He came to the UK with his wife and child on 30 April 2019. He came with the purpose of acting as a kidney donor for his nephew. On 4 September 2019, he claimed asylum, asserting that he would be at risk on return as the result of having converted to Christianity. He said that he had converted to that faith in Iran and had continued to practise it in the UK.

3. Judge Quinn did not believe the Appellant's claim. He heard evidence from the Appellant, the Appellant's wife [F], the Appellant's sister and nephew and a minister at the Baptist Church which the Appellant and his family attend, Reverend S Gordon. The Judge did not however accept the claimed conversion as credible. He therefore dismissed the appeal.

4. The Appellant appeals on seven grounds summarised as follows:

   Ground 1: the Judge acted in a procedurally unfair manner by relying on a matter not put to the Appellant.
   Ground 2: the Judge failed to make findings on items of evidence and/or other relevant factors.
   Ground 3: the Judge made a finding which was unsupported by the evidence.
   Ground 4: the Judge failed to apply the case law set out in TF and MA v Secretary of State for the Home Department [2018] CSIH 58 ("TF") when assessing the Appellant's credibility.
   Ground 5: the Judge failed to apply TF when dealing with the evidence of Reverend Gordon and Sister Katereh Rouin of North and East Iranian Church who had provided a letter attesting to the attendance of the Appellant and his family at her church (although she was not called to give evidence).
   Ground 6: the Judge failed to apply TF when considering the Appellant's sur place activities in the UK.
   Ground 7: the Judge failed adequately to deal with the best interests of the Appellant's minor child.

5. Permission to appeal was granted by First-tier Tribunal Judge Grimes on 1 December 2021 in the following terms so far as relevant:

   > "... 2. It is arguable that the judge erred in failing to apply the guidance in TF & MA v SSHD [2018] CSIH 58 (Grounds 4,5 and 6) in assessing the

evidence of the appellant, his wife and the Church Minister in relation to the appellant's claimed conversion to Christianity.

3. Although I consider the other grounds less meritorious, permission to appeal is granted on all grounds."

6. The matter comes before me to decide whether there is an error of law in the Decision and, if I conclude that there is, whether to set aside the Decision for re-making. If the Decision is set aside, I may either retain the appeal in this Tribunal for redetermination or remit it to the First-tier Tribunal to re-hear the appeal.

7. I had before me the Appellant's bundles as before the First-tier Tribunal. Those are headed as Appellant's Bundles A and B and, confusingly, a further Appellant's Bundle A. I do not need to refer to the Appellant's Bundle B. I refer hereafter to the documents in the other two bundles as [AB/xx] in relation to documents in the first Bundle A and [ABS/xx] in the second Bundle A. I also had the Respondent's bundle ([RB/xx]) and an additional evidence bundle. In addition to the core documents relating to this appeal including the Decision and the permission grant, that latter bundle contained documents which were not before Judge Quinn. There was no application pursuant to rule 15(2A) of the Tribunal Procedure (Upper Tribunal) Rules 2008 to adduce those documents at this stage and it was my understanding that their relevance would be only if an error of law were found, and a redetermination of the appeal became necessary. As it was, both parties were agreed that, were I to find an error of law in the Decision and the appeal needed to be redetermined, it would be appropriate to remit this appeal to the First-tier Tribunal for that purpose.

8. Having heard submissions from Ms Mellor and Mr Tufan, I indicated that I would reserve my error of law decision and issue that in writing. I therefore turn to that consideration.

DISCUSSION AND CONCLUSIONS

9. Ms Mellor began by indicating that the Appellant no longer pursues his third ground. I can therefore ignore that ground.

10. I turn next to the three grounds which formed the basis of the permission grant as being the most arguable. Those three grounds turn on the application by the Judge of the case of TF. It is common ground that the Judge made no reference to that case. It was also accepted by Ms Mellor, however, that the Judge was not referred to that case. She said that the Judge should have considered it of his own volition as it was relevant. If it was relevant, it is difficult to understand why the Appellant's legal representative did not refer to it in the lengthy skeleton argument which appears at [AB/2-20] or why that representative did not place reliance on it at the hearing. As Ms Mellor accepted, as a decision of the Scottish courts, it could be only of persuasive effect.

11. I also drew Ms Mellor's attention to the decision of this Tribunal in MH (review; slip rule; church witnesses) Iran [2020] UKUT 00125 (IAC). At [(iv)] of the headnote in that decision, the Tribunal said the following:

> "Written and oral evidence given by 'church witnesses' is potentially significant in cases of Christian conversion (see TF & MA v SSHD [2018] CSIH 58). Such evidence is not aptly characterised as expert evidence, nor is it necessarily deserving of particular weight, and the weight to be attached to such evidence is for the judicial fact finder."

12. In that case, the Tribunal accepted that there was an error of law in the First-tier Tribunal's decision but based only on a rationality challenge to the weight which had been given to the evidence of the church member who supported the Appellant's appeal. However, the Tribunal went on to say the following about evidence of "church witnesses":

> "34. We have intentionally confined our analysis to the appellant's third submission, and have not based our conclusion on either the decision of the Inner House of Session in TF & MA v SSHD [2018] CSIH 58 or the Administrative Court in R (on the application of SA (Iran)) v SSHD [2012] EWHC 2575 (Admin). The former decision is obviously only persuasive in England and Wales. The ratio of the latter is not binding on the Upper Tribunal: Gilchrist v HMRC [2014] UKUT (TCC); [2015] 1 Ch 183.
> 35. We did not hear full argument on these authorities but we do consider it appropriate to sound a note of caution about their effect. The evidence given by 'church witnesses' such as Dr MN in this appeal doubtlessly has a role to play in such cases. That has been recognised consistently in reported decisions including SJ (Iran) [2003] UKIAT 158. Such witnesses are able to provide factual evidence about a claimed convert's attendance at church and their other activities as a Christian. They are also able to provide their opinion as to whether the individual has genuinely converted to Christianity. The rules of evidence do not apply in the Immigration and Asylum Chamber and it is permissible for a lay person to give their opinion on such matters: rule 14(2)(a) of the Tribunal Procedure (FtT) (IAC) Rule 2014."

13. However, having reviewed what was said in TF and R (oao SA (Iran) v Secretary of State for the Home Department [2012] EWHC 2575 (Admin) and various authorities concerning expert evidence, the Tribunal rejected the categorisation of the evidence of "church witnesses" as expert evidence for reasons set out at [37] to [47] of the decision. At [48] of the decision, the Tribunal said this in summary of its position in relation to such evidence:

> "We do not understand Gilbart J [in SA (Iran)] to have suggested that it is impermissible as a matter of law for a judge who is tasked with assessing a claimed religious conversion to consider anything other than whether the individual is an active participant in the church. That he did not intend to suggest as much is clear, in our judgment, from the final sentence which we have underlined. Insofar as this paragraph is relied upon by representatives in support of a submission that active participation in church activities suffices, without more, to demonstrate

> the truthfulness of a conversion, we do not consider that to be the position. On the contrary, it is entirely permissible for a judge in a case of this nature to turn his mind to a whole range of additional considerations, including not least the timing of the conversion, the individual's knowledge of the faith, and the opinions of other members of the congregation as to the genuineness of the conversion."

14. Whilst recognising that the Tribunal's comments in this regard were obiter (as were those of the Courts in TF and SA (Iran)), I consider the Appellant's grounds four to six against that legal background. Apart from the Appellant's ground five, it is also worth noting, as I did at the hearing, that the principles relied upon in the Appellant's grounds four and six do not depend entirely on what was said in TF.

15. I begin however with the fifth ground concerning the weight given to the evidence of Reverend Gordon and the lack of consideration of the evidence of Sister Rouin. It was common ground that the Judge made no mention of the latter. Her "statement" is in fact in the form of a letter which is at [AB/58]. It contains no statement of truth. She was not called to give oral evidence. At its highest, it confirms merely that the Appellant and his wife and daughter attended her church between July and September 2019 and that the Appellant and his wife attended "Alpha courses" but were unable to complete them due their dispersal to another city. There is no explanation what an Alpha course entails nor does Sister Rouin express any opinion about the genuineness of the Appellant's faith.

16. The Respondent does not reject in terms the Appellant's account that he and his family have attended Christian churches whilst in the UK. In the Respondent's decision under appeal, she says this ([RB/78]):

> "You claim since coming to the UK you have attended two churches 'Iranian church for a period of two months and now I attend English church as well'. (AIR Q.193). When asked which churches you have been attending, you replied 'North Finchley Christadelphian in Croydon and North Heath Baptist Church' (AIR Q.194). When asked if the church has a Farsi interpreter, you replied 'No everything is in English (AIR Q.199). It was asked if you are unable to understand the services, you replied 'I understand something but not completely. It is on the screen so we can read it. We pray with other people' (AIR Q.200). It was asked why you have not found a church with a Farsi interpreter, you replied 'I cannot find any close to me, but I have to travel for an hour and a half to an hour and forty-five minutes to find a Persian/Farsi church. I don't mind if I go to a Persian or an English church it is the feeling that is important' (AIR Q.211). It is unclear why you have attended two different denomination Churches. Furthermore, given that being a Christian is of such importance to you, that you are willing to risk your life, it is unclear why you only attend services in English, which you state you cannot understand. This damages your credibility."

17. In substance, therefore, the Respondent rejects not the account that the Appellant and his family have attended churches whilst in the UK but

whether that attendance supports their claimed conversion. It is implicit in the decision letter as set out that it is that latter point which is not accepted. The evidence of Sister Rouin does not add anything to the Appellant's case in that regard and therefore the Judge did not need to refer to it. I add that this is also the way in which the Appellant addressed the Respondent's refusal of his claim in relation to his activities in the UK (see in particular [XIII] of the skeleton argument at [AB/6]). No doubt for similar reasons, no reference is there made to Sister Rouin's letter.

18. Turning then to the evidence of Reverend Gordon, he provided a letter dated 29 May 2021 ([AB/50]) and a witness statement dated 19 July 2021 based on a letter of the same date ([ABS/57-61)]. Reverend Gordon also gave oral evidence. His evidence confirms the attendance of the Appellant and his family at church. He says that his "interaction with them" persuades him that "they are genuine Christians". He had listened to how the Appellant said he had "[come] into the Christian faith". Reverend Gordon says that he does not consider that the Appellant and his family are "faking to be Christians just for immigration purposes" because "[f]or them to convert to Christianity has been and continues to be a dangerous step in their lives".

19. The Judge dealt with Reverend Gordon's evidence at [75] to [78] of the Decision as follows:

> "75. I took evidence from the Reverend S Gordon who was the minister at the Baptist church. I was impressed by his evidence but at the end of the day he was giving his opinion as to whether or not he believed that the Appellant and his wife had converted to Christianity. I had to look at all the evidence in the round and he of course had not seen all of that.
> 76. He described building up a relationship with a churchgoer. He described the Appellant and his wife meeting with him. He said having listened to them he felt they were ready to be baptised and he was satisfied that they were genuine converts.
> 77. However, he had not visited them in their home (possibly due to lockdown). He agreed that he had limited interaction with them outside of church.
> 78. He did say that he was unaware of the Appellant preaching."

20. The Appellant's complaint in this regard is that the Judge failed to give the evidence sufficient weight and should have accepted the Reverend's expertise. I have already explained why I cannot accept that such evidence is properly categorised as "expert evidence". It is the opinion of one person about the expressed faith of another, albeit the person making that judgement is of course very familiar with that faith. However, in this case, the Reverend had formed his view largely on the basis of his belief in the account given by the Appellant and his wife of how they came to that faith, based in turn on their account of conversion in Iran. That account was roundly disbelieved by the Judge in the part of the Decision preceding his consideration of Reverend Gordon's evidence for very detailed reasons. It was therefore open to him to reject

Reverend Gordon's evidence which relied to a large extent on that account. The Appellant's ground five is not therefore made out.

21. I move on then to the Appellant's fourth ground. Again, this is said to turn on what was said in TF. The Appellant derives three principles from that case. First, that the Tribunal should be careful not to dismiss an appeal because an appellant has told lies about some matters. That does not necessarily impugn his credibility on all matters. Second, that an appellant is not credible in his own evidence does not necessarily undermine other independent evidence on which he relies. Third, all evidence should be considered in the round and on its own merits rather than considering an appellant's credibility first and then carrying forward adverse credibility findings to other evidence.

22. I do not consider any of those propositions to be controversial and nor did I understand Mr Tufan to say that they were. They are in effect principles to be read together to the effect that adverse findings of credibility on one issue do not necessarily impact on other issues or other evidence which should be considered alongside and as part of the credibility findings.

23. I do not consider however that the Judge in this appeal erred in that regard. There was in fact only one central issue in this appeal; was the Appellant's conversion to Christianity genuine? It might be said that this was formed of two sub-issues namely whether the Appellant had converted as he said in Iran and whether he continued to practise his claimed faith in this country. However, although the latter is relevant to the former, given that it was the genuineness of the Appellant's claimed faith and not his practice of it in the UK which was at issue (as I explain at [17] above), it was the former which was decisive for the issue the Judge had to resolve.

24. The Judge set out in some considerable detail at [28] to [90] of the Decision, the evidence on which he based his findings which are incorporated in that section of the Decision. The Judge found there to be numerous inconsistencies between the Appellant's accounts and with his wife's evidence. He did not accept that a summons had been issued against the Appellant in Iran. He took into account Reverend Gordon's evidence as I have set out above but, as I there explain, the difficulty with accepting that evidence as supportive of the Appellant's account was that it was largely based on the Appellant's account about what had befallen him and his family in Iran and that account was disbelieved based on evidence which Reverend Gordon did not have. The Judge also took into account that the Appellant's sister and nephew had been unaware of the Appellant's conversion until quite recently.

25. I will come on below to the Appellant's other grounds challenging the Judge's reasoning. However, assuming for the moment that the Judge was entitled to the findings he made about the Appellant's credibility,

there is no wrong approach to that evidence set in context. There was in fact only one issue on which credibility had to be assessed. The Judge considered the other evidence in that regard alongside the Appellant's credibility (subject to what is said by the Appellant's second ground to have been overlooked). The evidence was considered in the round. The evidence of Reverend Gordon had to be considered in the context that it was based on the Appellant's account of his conversion in Iran as I have already noted. The Appellant has for those reasons failed to make out his fourth ground.

26. The Appellant's sixth ground is founded also on TF. The Appellant asserts that the Judge failed to make a finding on his sur place activities. I have largely covered this ground above. The Respondent did not take issue with the Appellant's account that he had attended churches in the UK. What was at issue was whether this supported his claimed conversion.

27. The Appellant says at [50] of his grounds that his "sur place activities should have been given significant weight when assessing of the genuineness of [his] conversion, and indeed more weight than his activities prior to entering the UK". I do not understand this submission. The issue was whether the Appellant had genuinely converted to Christianity. That had occurred on his account before he came to the UK. What happened in Iran was therefore central to the issue. It is for that reason that the Judge focussed on that evidence.

28. It is also said that "[t]here was ample evidence which demonstrated [the Appellant's] involvement in the church(es) since arriving in the UK, as noted at paragraph 23 [relating to the second ground which I come to below] and in the evidence of the ministers". I have already explained why Sister Rouin's evidence was not relevant to the Appellant's claimed conversion. I have also explained why the Judge was entitled to give little weight to Reverend Gordon's evidence about the Appellant's claimed conversion notwithstanding his own genuinely held view that the Appellant's faith should be accepted. The other evidence, as I will come to, is from other churchgoers and photographs which confirm the Appellant's attendance at church and an expert report. Assuming for the moment that the Judge was entitled to not refer to that evidence (which is the subject of the Appellant's second ground), the Judge did not need to deal with the Appellant's sur place activities beyond considering whether those added to the Appellant's case regarding the genuineness of his conversion.

29. The Judge did in fact consider the Appellant's evidence and that of his wife in this regard as follows:

> "64. Following his arrival in the UK the Appellant maintained that he continued to practise Christianity and that he was baptised on 25th October 2020. There had been a delay because of lockdown.
> 65. The Appellant said that he attended church and helped in church but apart from going to church he merely saw church members and he

> would say hello to them. The church was opposite his house. It happened to be a Baptist church and the Appellant was asked why he had chosen a Baptist church; he said the Baptist sect gave him truth and calmness and he thought to join the Catholic church you needed to be born a Christian.
> 66. The Appellant maintained that he preached Christianity to his friends but there was no reliable evidence of this and I think it was introduced at the last minute by the Appellant. There were no statements from any of his friends saying that he had tried to convert them.
> 67. The Appellant's wife said that her husband preached through Facebook but I saw no evidence of this. She was asked why she had chosen the Baptist church and she said there was no particular reason. She said the Iranian church was too far away and she did not think it made any difference to God.
> …
> 73. She was further pressed as to when her husband started to express his Christian faith on Facebook and she said that her mind was not helping her with the dates. She then said eight to nine months ago to one year ago.
> 74. She was asked how she showed the church that she was a believer before being baptised and he said that as long as one attended Sunday prayers and goes to some services the church sees you as a believer. Other than that, she said they did prayers at home."

30. The Judge then set out Reverend Gordon's evidence (set out at [19] above) and the evidence of the Appellant's sister and nephew that they had been unaware of the Appellant's conversion (at [79] to [82] of the Decision). The Judge sets out in those sections his findings explaining why the Appellant's activities in the UK did not provide support to his claimed conversion. Having thereafter summarised his findings that the Appellant's account of his conversion in Iran was not to be believed, the Judge did not need to say more.

31. The Appellant's sixth ground is not therefore made out.

32. I turn then to the other grounds, described by Judge Grimes when granting permission to appeal as being "less meritorious".

33. I can take the Appellant's first ground quite shortly. The Appellant relied in support of his appeal on a summons said to have been issued by the Iranian authorities against him. He did not produce the original of that summons, claiming that for his family to send it by post might create a risk for them. The Judge said this about that claim:

> "55. He did not produce the original of the summons so the Respondent could not examine it to authenticate it. The Appellant's excuse for this was that it would be dangerous to send such a summons out of Iran. I did not see why the summons could not be sent by a courier service such as DHL which would have been a secure means of transmission."

34. The Appellant complains that the Judge did not put to him the suggestion that the document could have been couriered to him and that it was procedurally unfair for the Judge to rely on this as a reason to reject the summons as giving support to his case. Whether that complaint is put as procedural unfairness or as impermissible speculation, I am unpersuaded that there is a material error in this regard.

35. Although it is perhaps surprising in the context of what is known about the surveillance methods of the Iranian authorities that it should be claimed that it is safer to send a document via electronic means (in this case WhatsApp) than by post, I accept that the Judge did not rely on that as a reason to reject the Appellant's explanation. However, what is said at [55] about the use of a courier service is in my view no more than an aside indicating that the Judge did not believe the Appellant's explanation for failing to provide the original document.

36. In any event, this was not the only or indeed the main reason for the Judge's rejection of the summons. The Judge considered the Appellant's case in this regard at [53] to [60] of the Decision. Even if one were to excise [55] of the Decision, the Judge gave ample other reasons for not giving weight to the document. The Appellant's ground one is for that reason not made out.

37. In relation to the protection claim, I turn finally to the Appellant's second ground. The Appellant says first that the Judge failed to take into account the following evidence:

    (i) The baptism certificates of the Appellant and his wife ([AB/73-74]);
    (ii) The statement of Sister Rouin ([AB/58];
    (iii) Photographs of the Appellant at his church ([AB/55-57]);
    (iv) A signed list of members of attendees at the church who witnessed the Appellant's attendance and baptism ([AB/52]).

38. I have already explained why the Judge did not need to refer expressly to the letter from Sister Rouin. The Judge referred at [64] and [74] of the Decision (cited at [29] above) to the evidence that the Appellant and his wife had been baptised. As a matter of fact, that was not disputed and therefore the Judge did not need to refer to the baptism certificates. The photographs confirmed only that the Appellant had attended church which, again, was not the controversial issue. The final item is a document headed "Sponsor list". It reads as follows:

> "Please also find below a list of members of our congregation who are able to affirm [DP]'s and [F]'s attendance and belonging to Northumberland Heath Baptist Church and have witnessed their public declaration of the Christian faith through their Baptism and active membership within our church which is also a member church of the Baptist Union of Great Britain".

What follows is simply a list of 28 names and signatures. There is no detail about those persons nor evidence from them.

39. The list is annexed to Reverend Gordon's letter dated 29 May 2021 ([AB/50-51]). It adds nothing to his own evidence with which I have already dealt. The fact of the attendance of the Appellant and his wife at church is, as I say, not the controversial issue. The question is whether such attendance demonstrates their commitment to the Christian faith and genuine conversion to it. A list of signatures to a bland statement that the Appellant and his wife have taken an active part in the church, the detail of which is not included in that evidence, adds nothing to the Reverend's own evidence. I have already concluded that the Judge was entitled to make the findings he did about that evidence.

40. The second part of ground two concerns an expert report relied upon by the Appellant which appears at [ABS/1-56]. That is a report written by Dr Mohammad Kakhki who is an Iranian barrister with experience of providing evidence about the Iranian judicial system and society more generally. He explains his role in the first section of the report as follows:

> "I have been instructed by Duncan Lewis Solicitors to produce an expert report commenting on the level of risk likely to be faced by [DP] upon return to Iran in light of his conversion to Christianity and baptism into the faith as well as his continued involvement with the Christian community whilst residing abroad. I am also asked to comment on the plausibility of [DP]'s account of being arrested and fined for failing to adhere to fasting during Ramadan as well as his description of being accosted by the family of a martyr and accused of being infidels as a result of his wife's 'unIslamic' attire and appearance (make-up, high heels, etc). I will also comment on whether [DP]'s continued non-observance of Islamic rituals and practices is likely to bring him to the adverse attention of the authorities and/or hardline conservative members of society resulting in extra-judicial persecution, should he be returned to Iran."

41. I deal first with the Appellant's complaint that the Judge failed to have regard to the risk arising from the Appellant's attendance at church in the UK. This is a risk specifically considered by the Tribunal in the country guidance case of PS (Christianity – risk) Iran CG [2020] UKUT 00046 (IAC) to which the Judge was referred by both parties and to which he said he had regard. The Tribunal considered the risk arising from the practice of Christian faith in the UK at [4] of the headnote. The Tribunal found that in general "[i]n cases where the claimant is found to be insincere in his or her claimed conversion, there is not a real risk of persecution 'in-country'". The Tribunal accepted that at the "pinch point" of arrival if there were disclosure of the reason for a failed asylum claim being conversion to Christianity, an appellant would be likely to be transferred for questioning and could be expected to sign an undertaking renouncing his claimed Christianity. The Tribunal also noted that other factors were relevant to whether there would be a real risk arising from such detention. Those were previous adverse contact with the Iranian security

services, connection with persons of interest to the Iranian authorities, attendance at a church linked to house churches in Iran and overt social media activity promoting Christianity. The Appellant's case regarding his conversion in Iran was not believed. That therefore rendered irrelevant any consideration of interest by the Iranian authorities. Neither the Appellant nor Reverend Gordon say that the Iranian authorities are interested in the Baptist church which the Appellant attends in the UK nor is it said that this church has any association with house churches in Iran. The evidence of the Appellant and his wife regarding Facebook activity was rejected due to lack of evidence. In short, therefore, having reached the credibility findings which he did, there was no case which the Judge needed to consider based on risk due to attendance at church in the UK.

42. It is also said that the Judge should have had regard to the expert's evidence as to plausibility. The Judge based himself on the evidence of the Appellant and his wife and inconsistencies within that evidence. It could not sensibly be said that the account given by the Appellant and his wife was not plausible in relation to the way in which the Iranian authorities or society more generally behave. However, the Judge had to determine the credibility of the Appellant's individual account of what had in fact occurred not whether, more generally, it would be believable. As is recognised by the expert himself, the most he could do was to comment on plausibility. Since the Judge did not reject the Appellant's case as implausible, he did not need to refer to this evidence.

43. Finally, the Appellant complains that the Judge ignored the characteristics of the Appellant and his wife when assessing their evidence. It was suggested by Ms Mellor that [F] was vulnerable and that the Judge should have applied the Joint Presidential Guidance when assessing her evidence. I accept her submission that just because the Appellant's legal representative did not ask for the Appellant's wife to be treated as vulnerable does not mean that the Judge should not have considered this for himself if the evidence pointed in that direction. However, in this case, the most that was before the Judge was a medical certificate dated May 2021 indicating that [F] was not fit for work at that date, a prescription dated March 2021 for antidepressant medication ([AB/75-76]) and assertions in the Appellants and [F]'s witness statement about counselling treatment and a GP appointment (§6 at [AB/65]). Absent any other medical evidence as to vulnerability, there was nothing for the Judge to consider. There was nothing in the skeleton argument pointing to any need to treat the evidence of the Appellant's wife in a particular way based on any vulnerability.

44. Also, in relation to [F], it is now said that she has a poor memory, and this too should have been taken into account by the Judge when assessing her evidence and inconsistencies. There are two difficulties with that submission. First, it is founded only on an assertion in her witness statement that she "suffer[s] from memory loss" (§11 at [AB/66]). It is not suggested in the skeleton argument that any adjustment needed to

be made to her evidence for that reason nor is there any medical evidence supporting the assertion.

45. Second, the Judge did in any event have regard to the claimed inability to remember dates when that was raised. The section dealing with [F]'s evidence appears at [67] to [74] of the Decision. On at least two occasions, she gave inconsistent dates for events. On one occasion (recorded at [68]), she said that there might have been an issue about conversion of dates between calendars. She did not claim that she could not remember. On another (dealt with at [73]), she said that she could not remember because "her mind was not helping her with dates" but then offered an approximate date. Other inconsistencies had nothing to do with dates. The Judge was entitled to rely on these inconsistencies for the reasons he gave.

46. The Appellant himself is not said to be vulnerable but it is suggested in the skeleton argument that he is "a man of little education". That is used to explain why he might not be conversant with the tenets of his new faith. That assertion however appears to be based only on the Appellant's answer in interview to the question about his level of schooling and education (Q2.6 at [RB/17]). He there said that he "studied up to 3rd year secondary school". Nowhere in his statement does the Appellant give his level of education as a reason why he could not understand more about the Christian faith. On the contrary, his evidence was that he researched it when in Iran and that he was tested on his knowledge when he was baptised. That is not consistent with a case that the Appellant was unable to understand his faith sufficiently to explain it to others.

47. For the foregoing reasons, I do not accept that the Appellant's second ground is made out in any of its component parts.

48. I turn finally to the seventh ground which concerns the Judge's findings in relation to the best interests of the Appellant's minor child. The Judge deals with this in the context of the Article 8 ECHR claim at [97] to [100] of the Decision as follows:

> "97. In terms of the Section 55 consideration, it was in the best interests of the Appellant's child to live with both parents. The child was also familiar with life in Iran having lived there until April 2019.
> 98. The balancing exercise came down firmly in favour of the Respondent and therefore the Article 8 claim failed.
> 99. Family life could continue as it had done if the parties returned to Iran and the child of course had grandparents in Iran. There were adequate schooling available and adequate medical facilities.
> 100. There were no exceptional circumstances and no insurmountable obstacles to the return of the Appellant and his wife and child to Iran."

49. I begin by observing that the Appellant is wrong to say in his grounds that the child's best interests are "of paramount importance". As Ms Mellor conceded, the best interests are a primary consideration but not

the primary consideration nor are they paramount (see [25] of the speech of Lady Hale in ZH (Tanzania) v Secretary of State for the Home Department [2011] UKSC 4).

50. I accept that the Judge's findings about the child's best interests are short. However, the detail needs to be considered in the context of the evidence before the Judge. The Appellant's child was born in 2011 and was just under eight years old when she came to the UK. The documents regarding her progress in the UK are limited to five pages in the bundle. Two of those are the child's identity card. The remainder show that she was enrolled in school in January 2020 which was just before the first Covid-19 lockdown. Perhaps unsurprisingly therefore there is little evidence about her education. The letter from the school at [AB/82] attests to her "excellent behaviour for learning". She appears to be a diligent student. She is also said to have made friends and her English-speaking ability is improving. The school notes that she took time to settle in class which was, understandably, "exacerbated by the national lockdowns".

51. The only other factor raised in the grounds is that the Appellant's daughter attends Sunday school. That does not appear in the statements of the Appellant and [F] but is mentioned by Reverend Gordon. He mentions it in his letter of May 2021. He refers to it again in his witness statement although says that "after lockdown" the Sunday school has become "irregular". He says only that he has seen the Appellant's daughter participate in "colouring or other activities during our weekly service", that she "interacts well with the other children" and "is happy in her school environment" (the latter assertion coming from the Appellant's and [F]'s account to him).

52. I accept as is said in the grounds that the assessment of a child's best interests has to be specific to the individual child. However, it also has to be linked to some evidence. The Judge considered the position. He took into account as is obvious that at her age, the best interests of the child are to be with her parents. He took into account that the Appellant's daughter is used to life in Iran where she spent the first seven years or so of her life. He also took into account that she has family in Iran and that there is an adequate education and health system there to care for her (and for the rest of the family). Brief though the Judge's reasons may be, based on the evidence he had, which was sparse, those reasons were a sufficient assessment of what the child's best interests require.

53. For those reasons, the Appellant's seventh ground is not made out.

CONCLUSION

54. For the foregoing reasons, I conclude that the grounds disclose no error of law in the Decision. I therefore uphold the Decision with the consequence that the Appellant's appeal is dismissed.

DECISION

I am satisfied that the Decision does not involve the making of a material error on a point of law. I therefore uphold the Decision of First-tier Tribunal Judge Quinn promulgated on 17 August 2021 with the consequence that the Appellant's appeal remains dismissed.

Signed L K Smith Dated: 16 March 2022
Upper Tribunal Judge Smith