



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: AA/09272/2012

THE IMMIGRATION ACTS

Heard at North Shields  
On 10 July 2013 & 21 August 2013

Determination Sent  
On 26 September 2013

Before

UPPER TRIBUNAL JUDGE DEANS

Between

MR HOSSEIN SADEGHI

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr R Selway, Solicitor, Halliday Reeves Law Firm  
For the Respondent: Mr P Mangion, Home Office Presenting Officer

DETERMINATION AND REASONS

- 1) This is an appeal with permission against a decision of Judge of the First-tier Tribunal J M Holmes dismissing this appeal on asylum and human rights grounds.
- 2) The appellant was born on 1 December 1981 and is a national of Iran. There are two limbs to his asylum claim. The first is that he came to the attention of the authorities in Iran by hosting a Dervish religious celebration. As a result the authorities ascertained that he was an installer of satellite TV equipment, which it appears was something of which the authorities disapproved. He was charged in the Revolutionary Court with anti-regime activities and fled when released on bail. The second limb of his claim is

that since arrival in the UK he has converted to Christianity and been baptised. He claims to fear persecution as an apostate on return to Iran.

- 3) The Judge of the First-tier Tribunal was not satisfied as the credibility of the appellant's evidence. The judge did not believe that the appellant had hosted a Dervish religious celebration in his own home and come to the attention of the authorities on this account. Further the judge did not accept that the appellant was a genuine convert to Christianity.

### **Application for permission to appeal**

- 4) In the application for permission to appeal it was contended that the judge's credibility findings were unsound and were not properly based upon the evidence. The appellant said in his evidence that following his departure from Iran he gave his passport to the agent who arranged his departure. The judge commented that there was "no obvious reason" to do this and it would be more likely that the appellant would have sent his passport back to his family for safe keeping. The appellant contends that the judge had no reason to doubt his evidence on this point. He accepts that his family have his identity card and it would be irrational for him to say that his family did not also have his passport once he had acknowledged that his family had his identity card.
- 5) It is further submitted in the application that the judge considered it "significant" that the appellant did not provide "evidence" of his travel from Iran to Turkey. According to the appellant this matter was irrelevant to his claim. It should not have weighed against him that he had no documentary evidence of how he left Iran. There was nothing unusual for someone in his circumstances about the way he left Iran.
- 6) The grounds then point out that the judge determined that it was "highly unlikely" that the appellant would have hosted a Dervish celebration given that he had previously been on a religious pilgrimage. The appellant argued that hosting the celebration showed nothing more than that he had an open mind and the judge was wrong to draw the inference he had.
- 7) In relation to the appellant's alleged conversion to Christianity, along with his wife, the judge decided that this was undertaken to "bolster a false asylum claim". It is pointed out in the application for permission to appeal that this seemed to be inferred from the fact that the appellant was converted after he was refused asylum and because his local minister, the Reverend Canon Farish, did not give evidence as a witness at the hearing. In the application the appellant points out that he was refused asylum less than a month after his arrival in the UK and that he and his wife had little contact with Christianity before their arrival here. The fact that their conversion took place after the refusal of their asylum claim did not detract from its credibility. The appellant further points out that both he and his wife have been baptised.

- 8) Permission to appeal was granted on all grounds. The appeal came before me first on 10 July 2013 for consideration of whether there was an error of law in the decision of the First-tier Tribunal.

### **Submissions on error of law**

- 9) On behalf of the appellant, Mr Selway submitted that the issue was whether the Judge of the First-tier Tribunal had erred materially in reaching conclusions that were arguably not open to him on the evidence. Mr Selway submitted that the judge had engaged in conjecture. His findings at paragraphs 19-20, where he considered the appellant's passport and his travel from Iran to Turkey, had coloured his view of the case. It might be argued that the findings made were open to the judge but there was a problem with the way the determination was set out. The findings in paragraphs 19 and 20 were not at the end of the judge's findings but at the start. At paragraph 19 the judge plucked out the idea that no reasonable appellant would act as the appellant had done in handing his travel document over to the agent instead of sending it back to Iran. The judge also pointed out that the appellant had not produced his identity card, which was in Iran with his family. However, the appellant's nationality was not in dispute. Mr Selway continued that at paragraph 20 the judge again referred to evidence of the appellant's identity but this was not disputed. It might be open to the judge to express concerns about the appellant's identity but the judge found that the appellant's failure to produce his passport or identity card was "significant". This should not have been treated as significant because the appellant's identity and nationality were not in dispute. The way the judge had started to make his findings had coloured the rest of the determination.
- 10) Mr Selway then turned to the alleged Dervish religious celebration held in the appellant's house. The judge referred to a discrepancy in the appellant's evidence over whether he was aware that the people he invited to his house were Dervish. According to his witness statement he knew they were Dervish and offered to host the Dervish celebration at his home. At his asylum interview he said he did not realise those attending the party would be Dervish until they arrived. Mr Selway submitted that there was no inconsistency here. The appellant knew that the person to whom he extended the invitation was Dervish but did not realise until the other guests arrived that they were Dervish as well.
- 11) In relation to the pilgrimage, Mr Selway submitted that the judge had relied on conjecture in stating that it was highly unlikely that someone who was sufficiently devout to have gone on a religious pilgrimage in 2001 would host a Dervish religious celebration in 2012. Mr Selway pointed out that the pilgrimage was eleven years previously. The judge assumed that the appellant was so bigoted that he would not invite persons of a different faith to his house. Further it was possible for a person to change their beliefs. The judge was wrong in assuming the appellant would not invite Dervishes into his house because he had been on pilgrimage. These findings coloured the rest of the determination.

- 12) Turning to the conversion to Christianity, Mr Selway submitted that the judge implied that the conversion was not genuine but he accepted that the appellant had been baptised and a baptism was not undertaken lightly. The judge did not properly consider the case law on conversion, for example in the case of SZ and JM (Christians - FS confirmed) Iran CG [2008] UKAIT 00082. There was no consideration by the judge of the risk to the appellant on return as a result of his conversion. The judge stated that he had "persuaded" the Reverend Canon Farish to baptise him but it was not clear what the judge meant by the use of the term "persuaded". The judge had made material errors of law and the appeal should be reheard.
- 13) For the respondent Mr Mangion accepted that nationality was not in dispute. The question the judge asked at paragraph 19 was whether it was reasonable for the appellant to hand over his passport to the agent who arranged his travel from Iran. According to the appellant he handed over the passport willingly. It was not stolen from him by the agent and it was not even part of a package deal. The appellant had paid 10,000 Euros to the agent and given him the keys to his car but there was no mention of handing over his passport as part of the deal. Although the judge did not state that by handing over his passport the appellant may have been trying to avoid the possibility of removal after his arrival in the United Kingdom this may have been part of the judge's thinking. The use by the judge of the word "significant" did not mean that it was determinative. The judge did not rely on this finding as the basis for other findings.
- 14) Mr Mangion then turned to the question of whether there was a discrepancy in the appellant's evidence over whether he knew the people he had invited to his home were Dervish. The Judge of the First Tier Tribunal found a discrepancy between the appellant's witness statement, in which he recorded that he offered to host a Dervish celebration at his home, and his answer to Q7 at his asylum interview, where he indicated that he did not realise that those coming to his house were Dervish until they arrived. Mr Mangion pointed out that the answer the appellant gave to Q7 at his interview was a long answer and the judge had regard to it at paragraph 21 of the determination. It was part of the appellant's evidence in his answer to Q7 that he realised that the people were Dervish when he saw them getting out of a mini bus at his house. At Q48 of the asylum interview the interviewer asked the appellant if there was anything in the house of his customer, Mr Karimi, to whom he extended the invitation to gather at his home, to indicate that he and the others were Dervish. The appellant replied that he saw certain musical instruments and poetry on placards. The interviewer would not have asked this question if the appellant had not earlier said that he had no reason to believe that the people whom he invited were Dervish.
- 15) Turning to the pilgrimage, Mr Mangion pointed out that in his response to Q49 at interview the appellant said that Dervish was a kind of Christianity. This was a very odd response. The Dervish celebration was being held on a Muslim holy day. The judge was not saying that no Muslim would invite Dervishes to his house but saying it was improbable this appellant would have done so. This ground of appeal was no more than a disagreement with the findings of the judge.

- 16) Turning to the baptism, Mr Mangion submitted that the judge had addressed this properly at paragraphs 28-29 of the determination and followed the case of Dorodian (01/TH/1537). The appellant had not complied with the evidential requirements set out in Dorodian and this diminished the weight of his testimony on his conversion. The judge found that the appellant attended the church only in order to benefit from free tuition in English. If the conversion was not genuine, then the judge was not required to consider the case law on the risk on return as a result of conversion.
- 17) In response Mr Selway submitted that Mr Mangion had relied on supposition to support the judge's findings in respect of the appellant's passport. The appellant was travelling with his wife. They had not claimed asylum before. The agent asked the appellant for his passport and it was unlikely that the appellant would have declined this request. Mr Selway pointed out that the appellant had said at his screening interview that he used his own passport to go to Turkey but in Turkey the agent took his passport and helped him to board a plane to the UK. The judge's use of the word "significant" in paragraph 20 showed that the judge's finding in relation to the passport and the identity card had coloured his view of the rest of the evidence.
- 18) In relation to the alleged discrepancy between the witness statement and the asylum interview over whether the appellant knew that the people he had invited were Dervish, the answer the appellant gave to Q7 at interview was not "perfectly clear" as the judge maintained at paragraph 21 but could be interpreted differently. In response to Q58 the appellant said that he thought that there would be a party where people would play music together and he did not see any problem. At Q59 he was then asked why the Dervish would have put themselves at risk of being exposed by the appellant without testing how he might react. The appellant replied that he talked to Mr Karimi and that Mr Karimi had assured the Dervish that there would not be a problem regarding the place where the party was to be held. The problem came from the neighbours, Mr Selway submitted. The entire determination was unsafe.

### **Error of law decision**

- 19) So far as the first limb of the appellant's asylum claim is concerned, his claim that he came to the attention of the authorities by hosting a Dervish religious celebration, I consider that the judge's reasoning is adequate, notwithstanding the criticisms which have been made of it. In his criticism Mr Selway did not directly attack paragraphs 23-25 of the determination. At paragraph 23 the appellant's evidence was recorded that he and his family lived in a suburb popular with members of the Sepah. (This appears to be a reference to the Revolutionary Guards, sometimes known as "Sepah Pasdaran".) The judge then went on to make the following findings:

"24. I note that the core of the appellant's oral evidence to me is that he voluntarily brought into such a neighbourhood a group of some 25 Dervish men to undertake a Dervish religious celebration in his own home. On his evidence he did not tell any member of his family (including his wife) about what he proposed; which if true is a clear indication that he believed they would object. Again, on his own evidence he took no steps to conceal

the presence, or the religious affiliation of his guests from his neighbours. Nor did he perceive any need to warn his visitors about the stance that his neighbours were likely to take towards a Dervish religious celebration, and thus have the need for discretion, and give Mr Karimi and his friends the opportunity to make an informed decision as to whether they should accept his invitation. Thus on his evidence the group arrived by minibus, some of them already in religious costume, so that they are able to be seen in public alighting from the bus and entering his home, and to be capable of visual recognition as Dervish. I am not satisfied that this is credible.

25. Moreover neither before the start, nor during the religious ceremony that the appellant claims was undertaken in his home, did the appellant take any precautions to prevent his neighbours discovering what was going on. On his evidence both the street door and the windows were open, and no curtains or blind were drawn. Thus it is his case that his neighbours were drawn to his house either to complain about the noise or to enquire as to the cause, and he believes that at least some of those who did, were able to ascertain what was taking place inside his house. Again I am not satisfied that this is likely to be true."

20) In these two paragraphs the judge expressed ample reasons for rejecting the core of the appellant's account in respect of the alleged Dervish celebration. Although the judge might be criticised for making findings about the appellant's passport and his identity card, and his travel from Iran to Turkey, I accept Mr Mangion's submission that these points were not determinative. So far as the alleged discrepancy in the evidence is concerned between the answer the appellant gave at Q7 of his interview and what he said in his witness statement about whether he knew his visitors were Dervish, I consider the judge was entitled to interpret the evidence in the way that he did. The appellant clearly stated in his witness statement that he invited the men he met at Mr Karimi's house to hold a Dervish celebration at his own house. He records that he told the men that it was his house and his family would be out so there would be no problem. The invitation was accepted. This is inconsistent with his earlier statement at his asylum interview when he said that he only realised the people arriving at his house were Dervish when they came out of the minibus wearing Dervish costumes. The appellant's evidence both at his asylum interview and in his witness statement was that he told his wife only that he would be hosting a party for some male friends but not the nature of the party.

21) When it comes to the judge's findings, however, about the appellant's claimed conversion to Christianity, I am not satisfied that the reasoning is sound. The appellant could not personally be expected to know the evidence he ought to produce in terms of the Dorodian guidelines but, of course, he was represented, although not by the firm who currently act for him. Those guidelines are themselves described as no more than "suggestions" in that decision and there is only one of the four - relating to the oral testimony of a clergyman - which was not followed. The judge had before him a letter from the Reverend Canon Farish, who attended the hearings before me on 10 July 2013 and 21 August 2013. The judge did not properly consider the contents of this letter and there was no adequate basis in the evidence for the judge to conclude that the appellant had somehow "persuaded" Rev Canon Farish to baptise him, implying that the

minister was misled or deceived. The judge gave no weight to the appellant's baptism and found that this had been undertaken in an effort "to bolster a false asylum claim" but the reasoning given for this is inadequate. The judge gave as one of his reasons for this finding that the appellant had expressed no interest in converting to Christianity before his asylum claim was refused. As the appellant points out in the application for permission to appeal, the asylum claim was refused just under a month after the appellant arrived in the UK. The refusal letter is dated 27 September 2012. According to the letter from the Reverend Canon Farish, dated 21 November 2012, the appellant and his wife had been attending the church for about three months, since they arrived in Stockton. This would mean their attendance began in the second half of August 2012, which was before the refusal decision. Even if the judge's finding was correct, namely that the appellant did not start attending the Alpha course until after the refusal of his asylum claim, having regard to the short timescale of the events in question, the judge was stretching his reasoning too far to rely on this as a basis for saying that the appellant's conversion was not genuine. I consider that the judge's reasoning does not adequately support his findings for rejecting the evidence of the Appellant's conversion. This amounts to an error of law and the decision of the judge is set aside, together with those findings relating to the conversion.

- 22) I considered the possibility of re-making the part of the decision dealing with the appellant's conversion to Christianity at the hearing on 10 July 2013. Both the appellant and the Reverend Canon Farish were present. Mr Selway indicated, however, that he wished more time to prepare and I noted that there were no specific directions stating that the decision would be re-made at the same hearing were an error of law to be found. Furthermore, there was another appeal listed for the same afternoon and it was questionable whether there would be adequate time to complete a hearing involving the evidence of two witnesses. Accordingly I adjourned the hearing so that the decision could be re-made on a later date in relation to the appellant's claimed conversion to Christianity and any risk on return arising from this.
- 23) The parties were directed to ensure that any evidence on which they sought to rely that was not before the First-tier Tribunal, including any witness statement, was filed with the Upper Tribunal and served on the other party no later than seven days prior to the further hearing, together with the notice required by Rule 15(2A) indicating the nature of that evidence and why it was not submitted to the First-tier Tribunal.

### **Evidence at the resumed hearing**

- 24) The appeal came before me for a resumed hearing for the purpose of re-making the decision on 21 August 2013. At the resumed hearing I was not concerned with the asylum claim as originally put forward but with the claimed conversion to Christianity by the appellant and his wife.
- 25) The appellant gave evidence before me and adopted his witness statement of 13 July 2013. He was asked by Mr Selway if he had ever brought anyone to his church. He said that he had brought two or three people but only one of them was still in the area.

They were all asylum seekers from Iran and some of them had obtained leave to remain and had left the area. He had brought them to the church because as a Christian it was his job to evangelise. Not all the people he had approached had agreed to attend the church. Some had attended only once and did not wish to return. The appellant said he had one friend who came to the church but did not wish to convert.

- 26) The appellant was asked if he would practise his faith if he returned to Iran. The appellant replied that he had to be able to evangelise and talk about Christianity. In Iran he could not attend church and would have to practise his religion in his home or in a basement. He would not be safe if he returned to Iran because he had practised his faith here and evangelised about Christianity on Facebook. He had been doing this on Facebook for about nine months. His material on Facebook was addressed to his friends but the Facebook page was open to anyone. The appellant referred to a printout of his page. The appellant was asked if he would evangelise on his return even at the risk to himself and his wife and child. The appellant replied that this was the path he had chosen and he was happy with it. His wife had converted as well. The appellant was asked what was it about Christianity which would make him risk his life and welfare. The appellant replied that from the day he converted he felt that he could communicate with God and he was close to God. He acknowledged that adherents of other faiths could communicate with God. He said, however, that the Koran was written in Arabic and could not be understood. Now he could understand and could communicate with no barrier between him and God. He could evangelise easily.
- 27) In cross-examination the appellant was referred to a reference in his witness statement to having attended an Iranian church in Turkey. He acknowledged that he had done this when he was on holiday in Turkey. His friend asked him if he would like to go to the Iranian church and the appellant agreed. He joined the congregation for the service and his wife accompanied him. He only went once but he was given a Bible in Farsi as a gift. He said he was aware of the risks of taking the Bible back to Iran but he was curious about Christianity and wanted to know the difference between the Koran and the Bible. He wanted to know why the Iranian Government did not let them read the Bible. The appellant was asked why in his previous witness statement he had not said anything about smuggling a Bible into Iran or attend a church in Turkey. The appellant said he had gone to church in Turkey because it was a free country and you could go to the mosque or the church. No-one would follow you. The appellant said he was curious. Christians used to come to his shop in Iran but when he asked questions they would not stay to answer him. The appellant wanted to know more. He took the Bible back to Iran and read it but could not understand the content without having someone to explain it. This was why he asked the customers in his shop but they would not answer him as they were too scared. The appellant was again asked why he had not mentioned these matters in his previous witness statement. The appellant said his solicitor at the time had told him to refer to his Christianity in the witness statement. The appellant had not wanted to do so. He said he did not convert because of his case but because of his heart.



- 28) The appellant was asked how soon he had started attending services in the UK after he had arrived. He replied that after only a week he was sent to Stockton. The appellant was trying to find out how to top up a SIM card for his phone. He was talking about this with a friend when a man who lived in the same building came up to him. This man was also Iranian and offered to help. The man mentioned that he was a Christian and asked the appellant if he would like to come to church. He said it was a good place and that there were English classes on Tuesday and Thursday evenings. There was a Sunday service and Bible study on a Wednesday. On Sunday they went to church together. The appellant was welcomed by Alan Farish, the priest-in-charge. The appellant and his wife left their names and addresses. There was no translation of the service so they started going to the English lessons on Tuesdays and Thursdays and going to Bible study on a Wednesday. The appellant was given a book in Farsi for the Alpha course. When the Alpha course started all those attending came together for prayer but after that the Farsi speakers were taken to a different room where they were instructed in Farsi.
- 29) The appellant was asked when he had received his refusal decision from the Home Office. He replied that he could not be precise but it was maybe 20-22 days after his move to Stockton. He started attending the Alpha course before he knew his claim had been refused and had been to one or two sessions before he was told. The course lasted 7-8 weeks and took place every Wednesday. The appellant's wife attended with him.
- 30) It was put to the appellant that at the hearing before the First-tier Tribunal he said that he first started attending the church in order to study English and gradually developed an interest in religion. The appellant replied that going to the English classes had nothing to do with going to church. From the start he was restless and this was before he gave his heart to Jesus Christ. It was then put to him that he had a prior interest in Christianity so why had he only gone to the English classes to begin with and not to the Farsi Bible classes. The appellant replied that he did not speak English at the time and he did not have any information about Christianity. He acknowledged that he had the Bible in Farsi but he said he could not comprehend it. When he read Matthew he did not know what Matthew meant. When he started going to church he did not feel anything. He could not even understand the Lord's Prayer in English.
- 31) It was put to the appellant that in his witness statement he stated that his wife became interested in Christianity when she found out she was pregnant. The appellant replied that before his wife became pregnant he gave his heart to Jesus Christ and prayed for Jesus to give him and his wife a child. It was put to the appellant that his wife had been attending the Alpha course and the church before she found out she was pregnant. The appellant acknowledged this but said that wherever they went they went together. The appellant was referred to his Facebook page, on which his name was given as Farzad. The appellant said that Farzad was his second name. This was not the name on his birth certificate but it was the name by which he was known by friends and at church and elsewhere. When he arrived he gave his two names. Attention was directed to the appellant's screening interview of 28 August 2012, in

which he said his first name was Hossein but he was normally called Farzad with the word “nickname” in brackets.

- 32) The appellant’s wife, Marijeh Rasooli, appeared as a witness. She adopted her witness statement on 31 July 2013 and was cross-examined.
- 33) Mrs Rasooli acknowledged that she had taken a holiday in Turkey with the Appellant and had attended church there on one occasion. They went with friends because they were curious about Christianity. At the time she did not have any intention to convert but she was interested in religion. She has developed an interest in Christianity through watching movies. She had seen one about Maryam, the mother of Jesus Christ. This was on television in Iran. She had not talked to anyone at the church in Turkey but her husband had.
- 34) Mr Rasooli was then asked whether she had started attending the Alpha course before or after her husband received his refusal letter. She replied that it was before. She was asked why she attended. She said she wanted to know more about Christians and Christianity. She had not read the Bible before she came to the UK. She did not discuss Christianity with her husband before she came here. She knew he had brought a Bible back from Turkey. This was a gift which was given to him. Mr Rasooli was asked why she did not read the Bible if she had an interest in Christianity. She replied that she did not have much information about Christianity.
- 35) Mrs Rasooli confirmed that she had given birth to a baby boy on 1 July 2013.
- 36) The Reverend Canon Alan Farish appeared as a witness. He referred to three letters he had written on behalf of the appellant. He was asked about his baptism policy. He replied that according to the law of the Church a minister of the Church of England can only defer baptism until a person has been adequately prepared. Rev Canon Farish said he required regular attendance at church as part of that preparation. He turned down about 15 requests a year for baptism because of non-attendance. His policy was to ensure that people requesting baptism were believers. He acknowledged that other parishes allowed bookings to be made for christenings without attendance or belief. Attendance was just the start. He talked to those preparing for baptism about the eleven promises that they would take before God and the Church. They would be accountable for keeping these promises.
- 37) Rev Canon Farish said that about 30 asylum seekers attended his church. Currently there were about 20 as 10 had been given leave to stay. Many of those given leave to stay left Stockton. This was only the fourth appeal hearing he had attended. He only attended when he felt he knew the person well and he turned down several requests a year.
- 38) Rev Canon Farish said the Alpha course ran throughout the year for seven weeks at a time. There was a course the previous autumn which was the first time he had run the

course. It ran from late September until the end of November with a full day on a Saturday.

- 39) Rev Canon Farish was asked why he believed the appellants were committed Christians. Rev Canon Farish confirmed that he did believe this. He believed the appellants got to know Jesus Christ in their time with him and his congregation. They knew of Jesus from their time in Iran but in church they came to accept him as the son of God, which was not a Muslim belief. As a Christian he believed that the appellants entered into a relationship with God and accepted the spirit of Jesus within them. Mr Sadeghi had done this more overtly and extrovertly than his wife but she had talked to Farzad who believed she was genuine. Each week they travelled the six miles to church - twice to worship and twice to the asylum support group. The church had now taken on a paid Iranian member of staff and Farzad had helped this person to move in. This new member of staff now translated the Sunday service through headphones.
- 40) Ref Canon Farish said that he had been a minister for 28 years and all of his service was in the diocese of Durham.
- 41) In cross-examination Rev Canon Farish was asked if the family had ever discussed details of their asylum claim with him. Rev Canon Farish replied that he would have asked Farzad why he had come here but he could not remember properly. He may not have talked about it with him since but he would have asked all those attending church initially. Rev Canon Farish was asked how many times the appellant had brought other people to church. He replied that he thought he had done so on three occasions. These were people he had met in Stockton where people tended to get to know each other. The appellant had talked to people in groups. He had spoken before 30 people and told them about the meaning of passages in the Bible they had been looking at. Rev Canon Farish said he did not know anything about the appellant having been preaching in the streets and this was not something that would be encouraged.

## Submissions

- 42) In his submission on behalf of the respondent, Mr Mangion relied on the original refusal letter. He referred to the country guideline case of SZ and JM (Christians - FS confirmed) Iran CG [2008] UKAIT 00082. Mr Mangion questioned whether the appellant was a genuine convert and whether he intended to proselytise. If not it would be safe for him to return. The appellant had given new evidence today about his experience of attending church in Turkey. The appellant said that in his original witness statement he was persuaded by his solicitor to include information on Christianity but he failed to mention that he had read the Bible in Iran, a Bible which he had smuggled into the country, and that he had attended church in Turkey. The appellant's evidence of a long standing interest in Christianity was contrary to the evidence he had given before the First-tier Tribunal. There the judge recorded that the

appellant began attending English classes and gradually developed an interest in Christianity.

- 43) Mr Mangion continued that the appellant had been on holiday in Turkey for 20 days and if he had an interest in religion why did he only once visit a church. The friend who invited him to attend was a regular attender. It was strange that this had never come up in conversation previously. The appellant had attempted to embellish his claim in relation to his conversion to Christianity just as he had embellished his asylum claim. The evidence of the appellant's wife was also inconsistent. She said she went to church because she was interested in Christianity. She knew there was a Farsi Bible in the house but never once thought to read it. Her husband said he read it but could not understand it. The appellant's wife watched a television programme on the life of Mary. This was consistent with the country guideline case of FS (Iran - Christian converts) Iran CG [2004] UKIAT 00303, in terms of which the authorities tolerated different religions unless they caused problem.
- 44) Mr Mangion continued that according to the appellant his wife's interest began after she became pregnant but she did not have much interest till then. This was inconsistent with the long-standing interest professed by the appellant's wife.
- 45) Mr Mangion referred to the appellant's Facebook account. He pointed out that this was in a different name from the appellant's name. The appellant said it was open to everyone and not just friends. The authorities in Iran would not be able to link the site to his name if his name was "googled" at the airport. If his faith was not genuine he could remove the material before his return.
- 46) Mr Mangion continued that there would be no breach of SZ and JM unless the appellant was proselytising. He had taken two or three people to church but they had not given evidence before the Tribunal. Little weight should be attached to the possibility of the appellant proselytising on return.
- 47) Mr Mangion questioned the evidence of Rev Canon Farish. He submitted that Rev Canon Farish held himself out as having the power of discernment to judge whether a person was genuine or not. This depended on a mixture of trust and faith. It was difficult for a minister to be critical of someone showing open signs of religion.
- 48) It was pointed out to Mr Mangion that he had not sought in cross-examination to question Rev Canon Farish's judgment on whether the appellant's conversion was genuine. Mr Mangion replied that Rev Canon Farish and the appellant did not speak the same language. If a person was attending church Rev Canon Farish would accept the person's commitment. Rev Canon Farish had no insight into the appellant's fabricated asylum claim. He had only seen what the appellant wanted to show him. Mr Mangion submitted that as a judge I was in as good a position as Rev Canon Farish to weigh the appellant's character.

- 49) In relation to Article 8 Mr Mangion submitted that the appellant and his wife and child would return as a family unit. There was little evidence of any strong relationships in the UK.
- 50) On behalf of the appellant, Mr Selway also relied on SZ and JM. He asked me to find that both the appellant and his wife were genuine converts and that the appellant intended to proselytise on return, which as pointed out in SZ and JM was the same as evangelising. Mr Mangion had said that the appellant had only brought 2-3 people to church. This had to be seen in context. The appellant had only limited English and there were few places where the Iranian congregation collected. The appellant had tried to spread the word. In his evidence Rev Canon Farish pointed out that the appellant had professed his faith before 30 people and he was reasonably likely on return to spread the word of God and would be persecuted for proselytising.
- 51) In relation to the evidence the appellant and his wife gave about their trip to Turkey, Mr Selway said that they were entitled to amplify the evidence they had given in their statements. The appellant had inserted this in his most recent statement and had taken a risk, albeit not a great one, by smuggling a Bible into Iran. He had tried to understand the contents but had difficulty in doing so. This was not surprising as for centuries theologians had had difficulty in doing so.
- 52) It was pointed out that the determination of the Tribunal in SZ and JM pre-dated the decision of the House of Lords in HJ (Iran) [2011] 1 AC 596. Mr Selway submitted that as a convert the appellant should not be expected to hide his light under a bushel. There was also the risk to the appellant of being accused of apostasy. Turning to the evidence of Rev Canon Farish, Mr Selway pointed out that he had 28 years experience of the ministry. He had given evidence in only four appeals. He was not a man who would be easily persuaded against his better judgment.

## Discussion

- 53) I will begin my consideration with the evidence of Rev Canon Farish. He is a senior and highly experienced minister of the Church of England. In his closing submission Mr Mangion questioned Rev Canon Farish's judgment but he did not do so directly in cross-examination, which weakens significantly his submission in this regard. When this was pointed out to him he submitted that as a judge I was in as good a position as Rev Canon Farish to assess whether the appellant's conversion was genuine. I accept, of course, that it is for the Tribunal to determine the credibility of a claim made by an appellant. In this appeal, however, Rev Canon Farish is a person who knows the appellant and has long experience of Christian ministry. His evidence ought to be given considerable weight unless there is good reason to the contrary. Mr Mangion submitted that the appellant and Rev Canon Farish do not have a shared language. The appellant has, however, been learning English and it is clear from Rev Canon Farish's evidence that he and the appellant have conversed. Furthermore, the parish church now employs a full time Iranian member of staff. In addition, Rev Canon

Farish has heard the appellant address other members of the Bible study group on passages of the Bible which they have been studying.

- 54) Mr Selway submitted that Rev Canon Farish was not a man who would be persuaded against his better judgment and I agree with this assessment. Rev Canon Farish has written three letters about the appellant and their tone is instructive. The first letter was dated 21 November 2012 and was before the First-tier Tribunal. In this letter Rev Canon Farish stated that the appellant and his wife had recently attended and completed the Alpha course and they were preparing to be baptised on 2 December. He stated he believed their Christian faith was genuine and that if they were returned to Iran they would continue to follow Jesus and hopefully to continue to share their faith with others. They were attending an asylum group within the parish church each week on Tuesdays and Thursdays and were working hard to improve their English as well as taking an active part in the community.
- 55) The second letter is dated 25 May 2013. He states that he has known the appellants for about 10 months since the first moved to Teeside and they are regular members of Stockton Parish Church. They have attended the main church service each Sunday since August 2012 as well as attending the Alpha course. In the professional opinion of Rev Canon Farish their Christian faith is genuine and is growing. They are learning about their faith through reading their Farsi Bible, through prayer, through public worship and through regular fellowship within the church. The appellant himself is working hard to improve his English and he now understands most of what is said to him and can converse fluently in English. The appellant is described as natural preacher who was being given some initial preaching/teaching experience in the discipleship group, which meets every Wednesday evening. This was developing a leadership gift within the appellant. If the appellant and his wife were returned to Iran, Rev Canon Farish is sure that the appellant would share his faith with others openly and enthusiastically and would try to invite other Muslims to follow Jesus Christ. The appellant's wife is described by him as very quiet and timid but her faith was still real and genuine.
- 56) The third letter is dated 13 July 2013. In this letter Rev Canon Farish states that he has now known the appellant and his wife for almost a year and he stands fully by everything that he said in his previous two letters. Rev Canon Farish refers to the Home Office claiming to doubt the authenticity of Hossein and Manijeh's baptism, "stating that it was granted by me through persuasion and coercion by them and questioning their and my motives for carrying out the baptism". Rev Canon Farish describes this attitude as "very disappointing and patronising". He is also disappointed that the Judge of the First-tier Tribunal "treated their new Christian faith dismissively at their appeal in December 2012".
- 57) Rev Canon Farish then refers to the strict baptism policy which he operates. He states that he regularly receives requests to baptise children of parents who do not attend the church and, because of what he required of them before conducting a baptism, many of these choose not to go ahead with their original request. He records that since January

2013 he has refused to baptise five Iranian asylum seekers because he was not convinced that their profession of faith was genuine and he thought their motives were dubious. In the case of the appellant and his wife he expresses himself 100% confident that their baptisms were genuine and appropriate. He states that the appellant and his wife continued to practise their faith with consistency and enthusiasm, still attending church every Sunday for worship and every Wednesday for discipleship training. Hossein would be in danger if he returned to Iran as he continues to share his faith with others and from time to time brings visitors to church with him.

- 58) A letter has also been provided by Mrs N Farish, who is the wife of Rev Canon Farish. She refers to the appellant as Farzad. She describes him as confident about answering questions in public and demonstrating an active faith from the answers he gives and the questions he asks. He makes jokes about Farsi words and English words and is trying very hard to improve his English. He and his wife have brought a number of friends to the church.
- 59) I regard the evidence of Rev Canon Farish as strong evidence in support of the appellant. Not only does he give evidence of a genuine conversion by the appellant and his wife to Christianity but he shows in his evidence a sustained commitment by the appellant and his wife to the activities of the Christian church. The claim by Mr Mangion that Rev Canon Farish and the appellant were unable to communicate in English has clearly been superseded by the appellant learning English to the point where is now able to make jokes comparing English and Farsi words or phrases.
- 60) Mr Mangion submitted that Rev Canon Farish had no knowledge of the embellished or fabricated asylum claim made by the appellant upon arrival in the UK and was therefore not in a proper position to ascertain whether the appellant was a trustworthy person. I note, of course, that the adverse credibility findings made by the Judge of the First-tier Tribunal in respect of the appellant's account of the events which he claims led him to leave Iran have not been disturbed. What I am concerned with, however, and what Rev Canon Farish is concerned with in his evidence, is the appellant's behaviour following his arrival in the UK and the making of his asylum claim. The appellant and his wife arrived in the UK on 28 August 2012 and claimed asylum on the same day. Their claim was refused by the respondent only just over four weeks later, on 27 September 2012. The appellant's recollection was that his asylum claim was refused about three weeks after he moved to Stockton. He had been attending the church in Stockton for at the most three weeks at the time his asylum claim was refused. This was early in the development in his Christian faith. His appeal before the First-tier Tribunal was heard on 3 December 2012, only the day after his baptism. The appellant gave evidence at that hearing but his wife did not.
- 61) The implication of Mr Mangion's submission is that having failed in his original asylum claim the appellant was now attempting to use his claimed conversion in an opportunistic manner to further his desire to stay in the UK. If this were so, I do not think that Rev Canon Farish would have been taken in by the appellant for long and certainly not for the period of almost a year for which Rev Canon Farish has now

known the appellant and his wife. Mr Mangion suggested that if Rev Canon Farish had known the history of the appellant's asylum claim, then he would not accept the appellant's conversion as genuine. Having read the determination by the Judge of the First-tier Tribunal and having heard the appellant give oral evidence about his Christian faith, it appears that the appellant was a fairly poor and unconvincing witness when giving evidence about his asylum claim before the First-tier Tribunal but by contrast he was a compelling and sincere witness when giving evidence before me about his Christian faith.

- 62) Mr Mangion referred to certain inconsistencies he said arose from the appellant's evidence before me. He referred to the appellant not having mentioned in his original witness statement for the hearing before the First-tier Tribunal that he had attended a church service in Turkey and smuggled a Farsi Bible into Iran.
- 63) In his oral evidence the appellant explained his reluctance to rely on his conversion to Christianity in relation to his asylum claim. Mr Selway rightly pointed out that a witness statement does not have to be exhaustive of an appellant's account but may be added to at the hearing. Mr Mangion pointed out, with some justification, that the appellant, having found not to be credible in relation to the events in Iran on which he based his asylum claim originally, might not be believed about the additions to his witness statement. In this regard I should also take into account, however, the evidence of the appellant's wife. This was consistent with her husband's evidence about attending a church service in Turkey.
- 64) Mr Mangion questioned why the appellant and his wife would only have attended church in Turkey on one occasion. He questioned why, if the friend who took the appellant and his wife to church was interested in Christianity, the appellant would not have discussed this with his friend at greater length.
- 65) The appellant's evidence was that he went to church in Turkey only towards the end of his holiday of only slightly less than three weeks' duration. This does not seem surprising when one looks at the range of activities people carry out on holiday. If a person is not particularly religious, attending a place of worship will not usually be high on their holiday priorities. This was something which was done only towards the end of the holiday and it may be that the appellant's friend felt comfortable about inviting the appellant to church only after he had been in his company for some time. This might also explain why his friend did not talk to him about Christianity earlier.
- 66) Mr Mangion questioned why the appellant's wife, in particular, said she had no interest in converting when she arrived in the UK if she had earlier been curious about Christianity, as she claimed. For my part I can envisage a considerable difference between curiosity about a religion other than one's own and a desire or intention to convert to that religion. I do not think the appellant's wife's evidence on this point is inconsistent. Mr Mangion questioned why the appellant's wife did not read the Farsi Bible when she returned to Iran. In my view it is to be expected that when people return from holiday they resume their normal activities and a person will not



necessarily go out of their way to study something which caught their interest while on holiday. The appellant was also asked why he had not studied the Bible in Farsi. He said this was because he could not understand it and he gave the example of looking at the book of Matthew and not knowing who Matthew was or what the book was about. It seems to me readily comprehensible that as the appellant had not been educated in the Christian faith he would not know the origin and significance of the gospels and would therefore find it difficult to comprehend what he was reading. Only after he arrived in the UK did he receive instruction in the Christian faith which gave him the understanding and direction required to begin studying the Bible properly.

67) Having regard to the evidence I have heard, and for the reasons I have given above, I find both the appellant and his wife to be genuine converts to Christianity who will seek to carry on their faith if they return to Iran. The question I then have to consider is the risk to the appellant on return.

### **Risk on return**

68) Mr Mangion referred me to the refusal letter but this is concerned with the appellant's asylum claim as originally expressed and does not address his conversion to Christianity. Both parties referred me to the country guideline case of SZ and JM. This refers to the significance of proselytising or evangelising but, as was pointed out at the hearing, it predates the decision of the House of Lords in HJ (Iran).

69) The evidence before me was that the appellant has already begun to evangelise in this country and it was his evidence and the expectation of Rev Canon Farish that he would continue to do so in Iran. Indeed, the appellant has already shown some interest in this by trying to ask questions of Christians who came to his shop, although they were too scared to answer. In the UK he has talked to other Iranians about his faith and he has brought several of them to church as visitors.

70) Although the Church of England might not be thought of as an evangelical church, in the way that phrase is sometimes used, the evidence received by the Tribunal in SZ and JM indicated that this is something of a misapprehension, particularly having regard to the evidence of the Very Reverend Nicholas Coulton recorded at paragraphs 82-85 of the decision. I note that the Very Reverend Nicholas Coulton is a former Dean of Newcastle, where he was responsible for pastoring a group of Iranians who worshipped there. He describes evangelising as simply meaning spreading the gospel.

71) The suggestion in FS was that in Iran it was those who attended the so-called evangelical churches who were most at risk of persecution. A distinction was made between what were terms "ethnic Christian" churches and Protestant churches. There was evidence that the Church of England in Tehran had a substantial congregation before the Islamic Revolution but after the revolution this congregation became very small as those of Iranian origin were deterred from attending.

- 72) The appellant is a man who by his own inclination would want to talk to other people about his faith and to share his faith with them. To do this in Iran, particular as a convert from Islam, would give rise to a real risk of persecution. If he were to be deterred from doing so by fear of such persecution, he would fall within the scope of HJ (Iran). I am satisfied it would be the intention of the appellant to share his faith with others if he returned to Iran and were he not to do so it would only be because of a fear of persecution. On this basis his asylum claim should succeed.
- 73) In addition, there is the appellant's position as an apostate and as someone who has declared his faith openly on his Facebook page. Mr Mangion submitted that the appellant would not be recognised by the Iranian authorities from his Facebook page because he used his nickname rather than his given first name. This seems to me a fairly slight defence as far as the appellant is concerned. He is widely known to his family and friends as Farzad and it would not be difficult for anyone investigating his activities to make the link between his identity and the identity on the Facebook page. This adds to the risk to the appellant.

### **Conclusions**

- 74) The making of the decision of the First-tier Tribunal did involve the making of an error on a point of law. I have set aside the decision.
- 75) I re-make the decision in the appeal by allowing it.

### **Anonymity**

- 76) The First-tier Tribunal did not make an order pursuant to Rule 45(4)(i) of the Asylum & Immigration Tribunal (Procedure) Rules 2005.

### **Fee Award**

Note: This is not part of the determination.

In the light of my decision to re-make the decision in the appeal by allowing it, I have considered whether to make a fee award (Rule 23A (costs) of the Asylum & Immigration Tribunal (Procedure) Rules 2005 and section 12(4)(a) of the Tribunals, Courts and Enforcement Act 2007).

No fee is paid or payable and therefore there can be no fee award.

Signed

Date

Judge of the Upper Tribunal