



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

Appeal Number: AA/08144/2014

**THE IMMIGRATION ACTS**

**Heard at North Shields  
On 10 June 2015  
Prepared on 11 June 2015**

**Determination Promulgated  
On 15 June 2015**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE JM HOLMES**

**Between**

**S. H.  
(ANONYMITY DIRECTION)**

Appellant

**And**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Ms Cleghorn, Counsel instructed by Halliday Reeves law Firm

For the Respondent: Mr Mangion, Home Office Presenting Officer

**DECISION AND REASONS**

1. The Appellant entered the United Kingdom illegally on 14 May 2014 and was arrested in doing so. He claimed asylum the following day, on the basis that he had left Iran illegally and that he was wanted by the authorities as one opposed to them politically and as an apostate.
2. That application was refused on 16 September 2014, and in consequence a removal decision was made in relation to him. The Appellant appealed to the Tribunal against those immigration

decisions and his appeal was heard on 21 November 2014, and it was dismissed by decision of Judge Clough, promulgated on 3 December 2014.

3. The Appellant duly applied to the First Tier Tribunal for permission to appeal, and that application was granted by Judge Lambert on 13 January 2015.
4. Thus the matter comes before me.

#### Apostate?

5. The Respondent did not dispute that the Appellant was raised as a member of the Muslim faith, and that he had practised that faith into adulthood. The Respondent did not accept that the Appellant had undertaken any genuine conversion to Christianity, but by the date of the hearing he had been both baptised and confirmed into the Christian faith by an evangelical church in Stockton; the Stockton Parish Church.
6. The Judge heard evidence from the Appellant and three witnesses from the Stockton Parish Church, but felt able to dispose of the appeal in what was described before me as an extraordinarily brief decision, the material parts of which consist of only six paragraphs. Mr Mangion accepted however before me that the Respondent had lodged no cross-appeal against the Judge's finding of fact to the effect that the Appellant was a genuine convert to Christianity. Thus it was accepted on behalf of the Respondent that the Judge should have proceeded to consider whether the Appellant would be at risk upon return to Iran as an apostate, and it was common ground before me that she failed to do so.
7. It was in those circumstances common ground that I should set aside the decision, and remake the decision upon the appeal, both parties being agreed that there was no need for the appeal to be remitted to the First Tier Tribunal to do so. The central finding of fact being unchallenged.

#### SZ & JM (Christians, FS confirmed) Iran CG [2008] UKAIT 82

8. It was accepted by the Judge that the Appellant had been baptised into an evangelical faith, and that his conversion to that faith was genuine.
9. The evidence before the Judge was that the Appellant would not pursue his new faith in Iran through fear of the consequences of being identified as an apostate in the event that he did so. That evidence was not rejected as untrue, and there was no obvious basis upon which it would be rejected as untrue once the core claim of conversion was accepted. Mr Mangion accepts before me that had the Judge considered the matter in the light of HJ (Iran) [2010] UKSC 31

she would have been bound to allow the appeal, and invited me to do so. Thus the Respondent accepts that the appeal ought to have been allowed on asylum grounds in the light of the Judge's acceptance of the Appellant's evidence about his faith.

10. In consequence the parties are agreed that I should set aside the decision upon the asylum appeal and remake it so as to allow the appeal on that ground.

## DECISION

The Determination of the First Tier Tribunal which was promulgated on 3 December 2014 did involve the making of an error of law in the decision to dismiss the asylum appeal that requires that decision to be set aside and remade. I remake that decision so as to allow the asylum appeal.

Signed  
Deputy Upper Tribunal Judge JM Holmes  
Dated 11 June 2015

### Direction regarding anonymity - Rule 14 Tribunal Procedure (Upper Tribunal) Rules 2008

Unless and until the Tribunal directs otherwise the Appellant is granted anonymity throughout these proceedings. No report of these proceedings shall directly or indirectly identify him. This direction applies both to the Appellant and to the Respondent. Failure to comply with this direction could lead to proceedings being brought for contempt of court.

Signed  
Deputy Upper Tribunal Judge JM Holmes  
Dated 11 June 2015