



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

Appeal Number: AA/10178/2014

THE IMMIGRATION ACTS

**Heard at Field House
On 2 July 2015**

**Decision & Reasons Promulgated
On 10 September 2015**

Before

DEPUTY JUDGE DRABU CBE

Between

P E

ANONYMITY DIRECTION MADE

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr A Burrett of Counsel instructed by Wick & Co, Solicitors.

For the Respondent: Mr E Tufan, Senior Presenting Officer

DECISION AND REASONS

1. The appellant is a citizen of Iran. His appeal against the decision of the respondent was heard by Judge Morrison, a judge of the First-tier Tribunal, at Hatton Cross on 18 February 2015. He dismissed the appeal for reasons he has given in his determination, which was promulgated on 27 February 2015. The appellant sought permission to appeal to the Upper Tribunal and permission was granted by Designated First-tier Tribunal, Judge Macdonald for reasons he gave in his decision of 25 March 2015. The determinative part of Judge Macdonald's decision is "There may be little merit in most of the grounds of application but the fact that Dr Kakhki saw

the original documents arguably goes to the heart of the appellant's case that he did convert from Islam which contention the judge rejected. Accordingly permission to appeal is granted and in line with **Ferrer (limited appeal grounds; Alvi)** [2012] UKUT 00304 (IAC), permission is granted on all grounds.

2. The core of the appellant's claim is that he was born in a Muslim family but none of his family was very religious. He felt persuaded by a Christian neighbour, with encouragement from his mother, to attend bible-reading classes in her home. His mother as well as his father had been supportive of the appellant attending such classes and had themselves attended the classes. This went on for about six months and then the neighbour took them to her friends' house with a swimming pool with the intention of baptising them. As they were at this house, the Basij came and took his father away. The appellant, his brother and mother were not taken away. Only the father had been but had been released the next day and was told that if his family members were seen participating in Christian activities again, they would be killed. It was after that the family did not go to Church anymore. A few days later he was told by his parents to pack some clothes and go with his neighbour's son named N. The two went by train to Urumiya from where they were taken to Turkey by an agent who had been arranged by his family and who accompanied him to the UK before disappearing. After his arrival in the UK the appellant had been attending various churches but had encountered language difficulties. He asserted that he was working towards baptism and that if he were returned to Iran he would be persecuted as he wished to follow the Christian faith.
3. The respondent accepted that the appellant is a citizen of Iran and also that he is Christian. The respondent did not accept that he was a convert to Christianity but had been brought up in a Christian family. The respondent took the view that as an ethnic Christian returning to Iran the appellant would not be persecuted. The appellant's appeal was dismissed. At the hearing of the appeal, the First-tier Judge Morrison heard oral evidence from Pastor S and the appellant. In paragraph 20 of his determination the Judge said, "There were no credibility issues in respect of the evidence given by Pastor S". Judge Morrison went on to say in paragraph 22 of his determination that "Having considered carefully all the evidence I have come to the conclusion that the appellant's account in relation to being brought up in a Muslim household, his conversion and his claim that the Basij raided the villa where his baptism was taking place is a fabrication". In paragraphs 24 to 38 the Judge gave his reasons for coming to the conclusion.
4. I heard oral submissions from Mr Burrett of Counsel and Mr E Tufan. Mr Burrett in the presence of the appellant. Mr Burrett amplified his grounds of appeal upon which permission to appeal had been granted, giving particular importance to the argument that the expert had in fact seen the original documents rather than photocopies as Judge Morrison had believed and this mistake had led him to give less weight than was appropriate to the report and findings of the expert. He also argued that

Judge Morrison was wrong to take the view that decisions in country guidance cases such as **SZ and JM** ([2008] UKAIT 00082) applied to the facts of the present case as according to him the principles set out in **HJ (Iran)** ([2008] UKAIT 00044) had overtaken these. However, as Judge Morrison recorded in his determination, Mr Burrett did not expand on this argument. He asked that I find a material error of law in the determination of Judge Morrison and allow the appeal.

5. Mr Tufan argued that Judge Morrison had not made any errors of law and even if there were an error in the determination it was not material. The conclusions drawn by Judge Morrison, he said, were well reasoned, not irrational or perverse. He asked that the decision be upheld. I reserved my decision which I now give.
6. I have given most careful consideration to the lengthy written grounds of appeal upon which permission had been granted, paying due attention to the terms upon which permission had been granted. I am afraid I find do not find myself in agreement with the decision of Judge Macdonald, a designated Judge of the First-tier Tribunal as he said in the final paragraph of his decision, “there may be little merit in most of the grounds of application but the fact that Dr Kakhki saw the original documents arguably goes to the heart of the appellant’s case that he did convert from Islam, which contention the judge specifically rejected.” Having examined carefully the reasons that led Judge Morrison to his conclusions adverse to the claim of the appellant, including the carrying out of an appraisal of the report of the expert Dr Kakhki, I am of the firm view that the arguments advanced in the grounds on this matter carry no weight. The reasons given by the Judge for not accepting the claim of the appellant despite the findings of the well-respected expert Dr Kakhki are perfectly sound and are supported by the evidence that was presented to him. Judge Morrison could not and would not have come to a different conclusion if he had realised that the expert had been presented with the genuine rather than photocopies of the documents. This is evident from the care he took in analysing all the evidence as set out in his determination. The assertion in the grounds of appeal relating to the standard of proof used by Judge Morrison is again without substance. As can be seen in paragraph 38 the Judge states, “I remind myself that the onus is on the appellant to establish their case to the lower standard required in these cases ...” The contents of paragraph 21 clearly defeats the ground that the Judge did not take account of the appellant’s young age.
7. In the circumstances I dismiss this appeal since the appellant has failed to establish that there is a material error of law in the determination of Judge Morrison, First Tier Tribunal Judge

K Drabu CBE
Deputy Judge of the Upper Tribunal

Date: 7 September 2015

