



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

Appeal Number: AA/08493/2015

**THE IMMIGRATION ACTS**

**Heard at : IAC Manchester**

**On : 4 May 2016**

**Determination  
Promulgated**

**On : 12 May 2016**

**Before**

**UPPER TRIBUNAL JUDGE KEBEDE**

**Between**

**[A S]**

Appellant

**and**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr M Schwenk, instructed by Halliday Reeves Law Firm

For the Respondent: Mr G Harrison, Senior Home Office Presenting Officer

**DETERMINATION AND REASONS**

1. The appellant is a national of Iran born on [ ] 1980. He claims to have arrived in the United Kingdom on 21 November 2014 and claimed asylum the same day, following his arrest for illegal entry. His claim was refused on 1 May 2015. He appealed against that decision. His appeal was heard by the First-tier

Tribunal on 27 October 2015 and was dismissed in a decision promulgated on 2 November 2015.

2. The appellant claims to fear return to Iran on the basis of his conversion from Islam to Christianity. He claims that he decided to become a Christian when he attended a house church in August/ September 2014 and he continued attending the house church regularly until he was told to stop and then found out that the house was being watched. In October 2014 he discovered that three of the people who had attended had been arrested the previous month. In November 2014 four men came to his office looking for him when he was not there and his wife told him that four men had also come to their house looking for him and had taken his laptop and some books about Christianity. He left the country after that, with the assistance of an agent. His wife had since been questioned by Herasat at her place of work and his colleagues had been questioned about his whereabouts. He has been attending church in the UK. He fears being arrested or killed by Ettela'at if he returned to Iran because of his conversion to Christianity.

3. The respondent did not accept the appellant's claim to have converted to Christianity, owing to inconsistencies in his account, and considered that he would be at no risk on return to Iran.

4. The appellant's appeal against that decision was heard in the First-tier Tribunal on 27 October 2015 by Judge Davies. At the hearing, an adjournment request was made on behalf of the appellant, on the basis that the minister of the church of which he was a member, Reverend [M], had not been able to attend but was willing to attend if the hearing could be postponed to another day. The judge did not agree to adjourn the proceedings and the appeal was heard, with oral evidence given by the appellant and Mrs [J], the churchwarden of Reverend [M]'s church. The judge did not find the appellant to be a credible witness. He rejected his claim to have converted to Christianity in Iran and considered that his interest in Christianity in the UK was solely to bolster a false asylum claim. He did not accept that the appellant had left Iran illegally. He found that the appellant would be at no risk on return to Iran and he dismissed the appeal on all grounds.

5. The appellant sought permission to appeal Judge Davies' decision and permission was granted on 30 November 2015.

6. At the hearing before me, Mr Schwenk relied and expanded upon the grounds of appeal. He submitted that there had been procedural unfairness in the appeal proceeding without Reverend [M], since her evidence could have persuaded the judge that the appellant's conversion was genuine. The failure to adjourn to enable the Reverend to attend was contrary to the principles in Dorodian (01/TH/1537). Mr Schwenk also submitted that the judge had given inadequate reasoning for his findings and had rejected the appellant's claim as to his conversion and illegal exit without proper explanation. He had also failed to engage with the significant amount of evidence submitted in relation to illegal exit and the risks to failed asylum seekers returning to Iran.

7. Mr Harrison, whilst opposing the appellant's appeal, nevertheless expressed concern about the inability of the Dorodian witness to attend the hearing and also noted that the question of illegal exit from Iran was the subject of country guidance to be heard the following week.

8. In light of Mr Harrison's concerns I decided that the appropriate course, in the interests of justice and fairness, was for the judge's decision to be set aside and re-made afresh in the First-tier Tribunal, with the benefit of the Dorodian witness, Reverend [M], and the new country guidance. Although it is understandable why Judge Davies refused to adjourn the hearing, given in particular that there had been a case management review hearing only a week or two earlier where no indication had been given of any difficulties in the witness attending, and that no prior adjournment request had been made, I agreed with Mr Harrison and Mr Schwenk that the appellant himself was not at fault and that the failings of his representatives should not detract from his ability to have a fair hearing.

9. Accordingly, I remit the case to the First-tier Tribunal to be heard de novo, with none of the credibility findings made by Judge Davies being preserved.

## **DECISION**

10. The decision of the First-tier Tribunal is set aside. The appeal is remitted to the First-tier Tribunal, to be dealt with afresh, pursuant to section 12(2)(b)(i) of the Tribunals, Courts and Enforcement Act 2007 and Practice Statement 7.2(b), before any judge aside from Judge Davies.

Signed:

Upper Tribunal Judge Kebede