



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

PA/00826/2017

Appeal Number

THE IMMIGRATION ACTS

Heard at Centre City Tower
On 12th July 2017

Decision and Reasons Promulgated
On 1st August 2017

Before

DEPUTY UPPER TRIBUNAL JUDGE PARKES

Between

S R S
(ANONYMITY DIRECTION MADE)

Appellant

And

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

For the Appellant: Mr S Woodhouse (Legal Representative, HS Immigration Consultants)
For the Respondent: Ms H Aboni (Home Office Presenting Officer)

DETERMINATION AND REASONS

1. The Appellant, a citizen of Iran, applied for asylum in the UK in 2016 but was refused. The Appellant then appealed the decision and that was heard by Judge Obhi at Sheldon Court in Birmingham. She dismissed his appeal in a decision promulgated on the 30th of March 2017. The Appellant was granted permission to appeal to the Upper Tribunal on the basis of grounds of the 6th of April 2017.
2. There were 2 main issues that the Judge had to consider, the first was whether the Appellant was a genuine convert to Christianity and the second turned on his internet activity. So far as the first was concerned the Judge rejected the Appellant's claim to have converted. The challenge to that finding was on the basis that the Judge had applied the wrong standard of proof there being a reference in paragraph 30 to the balance of probabilities.
3. The Judge had correctly identified the appropriate standard of proof in paragraphs 13 and 33 of the decision and the line objected to in paragraph 30 came at the end of a series of paragraphs, starting at paragraph 26, in which the Appellant's claim had been discussed. Had that been the only issue then I would not have found for the Appellant.

4. However, it was accepted by the Home Office that the decision contained no analysis of the Appellant's internet activity and so no assessment of whether the Appellant would be at risk on return to Iran. This was an issue that had to be addressed in full but had not been considered even partially.
5. The Appellant's appeal papers include further evidence in relation to his claimed conversion. That evidence is not relevant to the issue of an error of law as the assessment of a decision has to be on the basis of the information that was presented to the Judge in the appeal. If an Appellant fails to provide relevant evidence at their appeal hearing or in the papers submitted then that is not an error by the Judge.
6. In reality in this case given the Judge's failure to consider the Appellant's internet profile and the risk that that might create for him means that that aspect of the case requires full appraisal and a series of findings to be made on a number of discrete issues. Given the nature of the additional evidence submitted in relation to the Appellant's claimed conversion and the issues to be decided in relation to the internet evidence which has to be considered in full I indicated that it would be better if all matters could be heard together and to that end the entire decision would be set aside and remitted to the First-tier Tribunal for rehearing on all issues.
7. The practicality of that approach was accepted by the parties at the hearing and accordingly that is the means by which this appeal is disposed.

CONCLUSIONS

The making of the decision of the First-tier Tribunal involved the making of an error on a point of law.

I set aside the decision and remit the appeal to the First-tier Tribunal for re-hearing on all issues with no findings preserved. This is not to be re-heard by Judge Obhi

Anonymity

The First-tier Tribunal made an order pursuant to rule 45(4)(i) of the Asylum and Immigration Tribunal (Procedure) Rules 2005.

I continue that order (pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008.)

Fee Award

In remitting the decision for rehearing I make no fee award which remains an issue for the First-tier Tribunal dependent on the outcome of the rehearing.

Signed:

Deputy Judge of the Upper Tribunal (IAC)

Dated: 1st August 2017