



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

Appeal Number: PA014382016

THE IMMIGRATION ACTS

**Heard at Field House
On 19 July 2017**

**Promulgated and sent
On 10 August 2017**

Before

MR C M G OCKELTON, VICE PRESIDENT

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

TAHIR MEHMOOD

Respondent

Representation:

For the Appellant: Ms J Isherwood, Home Office Presenting Officer

For the Respondent: Ms K Tobin, instructed by Warnapala & Co Solicitors

DETERMINATION AND REASONS

1. The respondent, whom I shall call the "Claimant", is a national of Pakistan. He appealed to the First-tier Tribunal on protection grounds against the Secretary of State's decision to make a deportation order against him. That decision followed the claimant's conviction of a serious criminal offence as a result of which he was sentenced to four years and six months imprisonment.
2. Judge Grimmett allowed the appellant's appeal. It was allowed on one ground only. That is to say that the appellant was properly to be regarded as a Christian. It was accepted by the Secretary of State that if the

appellant had converted to Christianity he was at risk of ill-treatment contrary to article 3 if returned to Pakistan. The Secretary of State appeals to this Tribunal and has permission on the ground that the judge's judgement insufficiently takes into account the Secretary of State's position and is insufficiently reasoned to comply with the obligation of a judge to show the reasons for the decision.

3. I have heard submissions based on the grounds from Ms Isherwood; I have not needed to call upon Ms Tobin for the claimant. As Ms Isherwood has said, this is a case in which there was very substantial reason to doubt the claimant's word. Many of the issues raised were raised only after the deportation decision was made. He is a person who has continued to deny a responsibility for the offence of which he was convicted. He made and, so far as is known, continues to rely on, an application based on his family life in the United Kingdom although he has separated from his wife and there is no continuing relationship with his wife or his stepchildren. He made at one stage an allegation based on a medical need to remain in this country because of the condition relating to his kidneys. That assertion has not been pursued. His story of the circumstances and his history before he left Pakistan for the United Kingdom has been disbelieved and his claim that he is at risk particularly from members of his family on return to Pakistan has also been disbelieved.
4. Those are matters which are not only part of the Secretary of State's decision but were endorsed by the judge in making her decision. The judge's judgment is a short one which runs in total to twenty-two paragraphs including the formal ones at the end. This is not a case in which, in my judgment, it can reasonably be said that in making the decision that she did in favour of the claimant the judge had lost sight of the many adverse factors in the claimant's case, some of which I have already set out. It was necessarily in that context that she considered the claimant's claim that he is indeed a Christian. As Ms Isherwood has accepted, essentially the entire case before the judge, and thus before this Tribunal, turns on whether the claimant was to be believed when he said that he had embraced Christianity, and thus was to be regarded as a person who was a Christian convert and hence an apostate so far as Islam is concerned.
5. The principal difficulties to which the Secretary of State's refers and referred in relation to that are, first, what the Secretary of State has described as the "convenience" of a conversion that so closely coincided with the decision to deport him, and, secondly, the fact that both at his initial asylum interview and at his detailed interview he sidelined what he now claims was a genuine full-hearted Christian conversion. In his screening interview he indeed gave his religion as Sunni Muslim at a time after he claimed to have converted to Christianity; and in his detailed interview he asserted that the chaplain in the prison had said that it was perfectly all right for him to continue to attend services at the prison mosque. In addition, the Secretary of State points out that there appears

to be a difference between the various accounts the claimant has given of the date of his conversion to Christianity. The Secretary of State, through Ms Isherwood, says to me, as through Mr Hogg she said to the First-tier Tribunal Judge, that taking those factors with the general reasons for disbelieving the claimant, his claim to have converted to Christianity simply should not be accepted.

6. So far as the arguments put to the First-tier Tribunal are concerned, that, as it seems to me, is a perfectly acceptable way of putting the case. When the matter comes to this Tribunal however, Ms Isherwood has to show that the judge was not entitled to reach the view for the reasons she did, or alternatively that the reasons she gave are inadequate. I am wholly unpersuaded that the judge did not have properly in mind the Secretary of State's points made in writing and orally before her and to a large extent referred to specifically in her short judgment. The judge had in mind that this was a case which stood or fell by the honesty or otherwise of the claimant's claim to have converted to Christianity. There were the adverse factors to which I have already referred. The judge, as I say, appears to have had those in mind, and the fact that she does not specifically refer to them at paragraph 15 of her judgement, it seems to me helps the Secretary of State's case not at all.
7. The judge had the following evidence before her at the date of the hearing, which was in April 2017 some time (obviously) after the Secretary of State's interviews and decision letter. First, there was the claimant's own claim that he had converted. If the matter had depended on that alone it might have been difficult to understand why the judge should accept that whilst rejecting virtually everything else that the claimant said; but the claimant's own claim was supported by an oral witness before her, a Miss Cuthbert, who herself gave evidence not merely about her own views, (although accepting that she could not know a person's heart): she was a person of some experience working with individuals in prison; she also reported the views of the prison chaplain and also the views of an Urdu-speaking Christian friend who had been interacting with the claimant. There does not appear to have been any serious challenge to Miss Cuthbert's evidence at the hearing. She was asked a number of questions but there was no suggestion as I understand both from the judge's note and from what Ms Isherwood has told me that there was any reason to disbelieve what Miss Cuthbert said about the claimant's own activities and experiences. The claimant had, according to Miss Cuthbert's evidence, been studying the bible for about two years, was in regular contact with the chaplain at the prison where he was and then with Miss Cuthbert at the prison where he is. She had been impressed by his study, she had been a witness to his baptism, it was she who spoke about the Christian friend at his views and it was she who said that the claimant had been attending an alpha course. There was also some evidence at some stage that the claimant had been attacked by Muslim prisoners as (presumably) an apostate; looking at the judge's note, it appears that the claimant said that. Looking at the judge's judgment it appears that it was confirmed as

something about which Miss Cuthbert also knew and evidently did not dissent from.

8. The judge's task was to consider the evidence before her and to reach a conclusion on whether this aspect in particular was to be believed. It seems to me that the judge did that job. Her reasoning on this crucial factor occupies two of the twenty-two paragraphs to which I have already referred in a brief judgment. It seems to me that she gave adequate attention to this point; she had the adverse factors in mind but the truth is simply that she was persuaded by the oral evidence in front of her, not merely from the claimant but as supported by Miss Cuthbert who reported the views of other individuals. Thus the Secretary of State's ground of appeal amount really to disagreement. I can easily understand that the Secretary of State does disagree with the judgment but it was the judge's task to decide the issue and she did her job in so deciding it.
9. I therefore find that the judge made no error of law and her decision allowing this appeal on human rights grounds therefore stands.

C. M. G. OCKELTON
VICE PRESIDENT OF THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER
Date: 8 August 2017