



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

Appeal Number: PA/01575/2017

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 26 October 2017**

**Decision & Reasons Promulgated  
On 3 November 2017**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE LATTER**

**Between**

**M R A  
(ANONYMITY DIRECTION MADE)**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Ms S Clarke, instructed by Fadiga & co, solicitors.

For the Respondent: Mr P Deller, Home Office Presenting Officer

**DECISION AND REASONS**

1. This is an appeal by the appellant against a decision of the First-tier Tribunal issued on 21 March 2017 dismissing his appeal against the respondent's decision of 27 January 2017 refusing his application for asylum and humanitarian protection.

Background

2. The appellant is a citizen of Iran born on 19 March 1990. On his own account, he left Iran in November or December 2015 travelling overland to Turkey where he stayed for four days. He then travelled to Greece staying for 10 days and then across Europe to France. He attempted to enter the UK on 14 May 2016 but was removed. Undeterred, he returned to the UK by boat on 31 July 2016 and claimed asylum.
3. The basis of his claim was a fear of persecution because he had converted to Christianity. His account can briefly be summarised as follows. He was born into a Shia Muslim family but they were not religious. He did not comply with religious requirements and there was an occasion when he was beaten after being found drunk at a checkpoint. He did his military service for 18 months in 2008-9. His family then asked the family of a Muslim girl he knew for her hand in marriage but this was rejected as the appellant was not religious. This led to him becoming depressed.
4. He was then contacted by a friend, M, he had not seen for six years who insisted that he visit him at his house. This was on 24 July 2015. M was kind and they discussed the rejection of his marriage proposal. M told him to forgive the girl and he spoke of the love of God. The appellant noticed a Bible on his kitchen table and started to read it and he liked what he read. He asked if he could borrow it and M said that he would get him his own copy. Two weeks later on 7 August 2015 M gave him a Bible and as a present and later took him to a house church. He attended weekly on Fridays but could not go to the Alpha classes on Wednesdays as he was working.
5. The appellant stopped attending the church when M called him to say that one of his friends at the church had been arrested. He told the appellant to collect anything incriminating from his home and go into hiding. He did so and called his father who was very upset. His father called him two days later saying that M had been arrested and after another two days, he called again saying that the Etelaat had raided the family home, had found the Bible in the appellant's room and his ID card and had arrested his twin brother. The appellant left Iran the same day with the assistance of an agent.
6. The appellant claimed asylum on arrival in the UK but for the reasons set out in the decision letter dated 27 January 2017, the respondent was not satisfied that he had converted from Islam to Christianity in Iran, that the authorities there had developed any adverse interest in him or that removing him to Iran would be in breach of either article 3 or 8 of the ECHR. The appellant appealed to the First-tier Tribunal

#### The Hearing before the First-tier Tribunal

7. The judge heard oral evidence from the appellant and a witness from a church he attends in the UK. For the reasons she gave in [19] - [33], she was not satisfied that the appellant had converted from Islam to

Christianity or that he had any serious intention of doing so. Her findings are summarised in [32]-[33]:

"32. I have to be satisfied to the lower standard of proof that this appellant is a Christian convert. I do not find that this appellant was interested in Christianity in Iran to the extent that he decided he would study the Bible or become a convert. I do not find that he was interested in religion to any great extent. I do not accept that he fled Iran because his friends were arrested or because he thought he would be arrested. I do not accept that the family home was [raided] or that either [R] or [A] was detained by the authorities. It follows that the appellant does not leave Iran because of any convention reason.

33. I do accept that this appellant has been attending church in the UK. It seems to me more likely than not that he is doing so to bolster his claim. I am not persuaded by his oral evidence or that of his witness that he is attending Alpha classes with a view to conversion. The documentary evidence he has adduced in support of his claim is woefully inadequate."

8. The judge went on to consider, if she was wrong and the appellant was now intent on becoming a Christian, whether he would be at risk on return to Iran. For the reasons given in [35] - [41], she found that the appellant, even if interested in converting, would not do anything more than attend meetings at house churches and would not be at real risk from the authorities in Iran. She also found that the appellant would not be at risk on return as a failed asylum seeker or as someone who had left the country illegally.

### The Grounds of Appeal and Submissions

9. In the grounds of appeal, it is argued that the judge erred in law as follows. Firstly, she erred at [20] as she accepted that the appellant had been consistent as to the core of his account but had not been clear or consistent in the details. It is argued that in the light of Chiver (1997) INLR 212 this is a material error because it goes to the credibility of the appellant's case and having accepted the core of the account, it was perverse to find that he had not been clear or consistent in the details. Secondly, the judge erred by carrying out her own research on the internet referred to at [30]. Any relevant questions could have been asked of the witness from the church and, in any event, the representatives were not made aware that the judge will be doing any such research.
10. Thirdly, at [31] the judge wrongly drew an adverse inference from the fact that the appellant had not been baptised when the evidence from the witness from the church was that baptism came after the completion of the Alpha course and as he had not completed the course, he could not be baptised. Fourthly, it is argued that the judge did not properly assess the country guidance decisions referred to at the hearing and failed to take into account credible background country information identified in ground 4 supporting an argument that the appellant would be at risk on return. Fifthly, it is argued that the judge fell into error in her overall consideration

of the claim and that the decision refusing permission to appeal the First-tier Tribunal was materially flawed.

11. Ms Clarke adopted her grounds. She submitted that the judge had been wrong to carry out her own research on the internet as any information she sought could have been provided by the witness from the church. She further argued that the judge had been wrong to infer from the website that the church was not active and that had clouded her assessment of the appellant's evidence. She further argued that the judge had given undue weight to the fact that the appellant had not been baptised and had failed to assess that issue in context.
12. Mr Deller indicated that he had concerns about the safety of the judge's findings of fact. He conceded that the judge had erred by carrying out an internet search when there had been no need to do so and had further erred by drawing an unwarranted conclusion about whether the church the appellant attended was active or not. He accepted that there was substance in the fourth ground that the judge had failed to take into account recent background evidence about circumstances facing Christian converts in Iran. For these reasons, he did not seek to resist the appeal.

#### The Error of Law

13. I accept that this concession is correctly made and, accordingly, I find that the judge erred in law as submitted by Ms Clarke and in particular as set out in grounds 2, 3 and 4. Both representatives accepted, and I agree, that in these circumstances the decision should be set aside and the appeal be remitted to the First-tier Tribunal for a full rehearing.

#### Decision

14. The First-tier Tribunal erred in law and the decision is set aside. The appeal is remitted to the First-tier Tribunal for a full rehearing by a different judge.

Signed: H J E Latter

Date: 30 October 2017

Deputy Upper Tribunal Judge Latter