



**Upper Tribunal
(Immigration and Asylum Chamber
PA/03159/2016**

Appeal Number:

THE IMMIGRATION ACTS

Heard at Field House

Decision & Reasons

On 12 May 2017

Promulgated

On 16 May 2017

Before

DEPUTY UPPER TRIBUNAL JUDGE SHERIDAN

Between

AT

(ANONYMITY DIRECTION MADE)

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation

For the Appellant: Ms. N. Ostadsaffar, Counsel instructed by Stuart & Co Solicitors

For the Respondent: Mr L. Tarlow, Home Office Presenting Officer

Anonymity

Pursuant to Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 (SI 2008/269) I make an anonymity order. Unless the Upper Tribunal or a Court directs otherwise, no report of these proceedings or any form of publication thereof shall directly or indirectly identify the appellant. This direction applies to, amongst others, all parties. Any failure to comply with this direction could give rise to contempt of court proceedings.

DECISION AND REASONS

1. The appellant is a citizen of Iran, born on 23 August 1995, who arrived in the UK on 6 October 2015 and applied for asylum on the basis that he converted from Islam to Christianity and faces a risk on return to Iran as a consequence.
2. The appellant's application was rejected by the respondent on 17 March 2016. The respondent did not accept that the appellant was a genuine convert to Christianity.
3. The appellant appealed and his appeal was heard by First-tier Tribunal Judge Shergill. In a decision promulgated on 9 December 2016, the judge dismissed the appeal. The appellant is now appealing against that decision.

The appellant's claim

4. The appellant's case is that he was born into a Muslim family but that his parents converted to Christianity around two years before he left Iran. He claims that his parents did not initially tell him of their conversion but then did, warning him to not tell anyone. He claims that he picked up a book on the dining table in his home about Jesus and his parents were pleased that he was interested in their new religion. They brought him to a home church, near to their home, which he attended on two occasions. On the third occasion, he was late (as he had been playing football), and when he arrived at church he saw police cars and all the congregants, including his parents, being arrested. With the assistance of his uncle, he fled Iran and travelled by truck to the UK.
5. The appellant claims that since arriving in the UK he has been an active Christian, attending church every Sunday, first in Wigan and then in London.
6. In support of his case, the appellant submitted to the First-tier Tribunal two letters concerning his religious activity in the UK. One was a letter from Farzam Moazzeny, of Today's Community Church in Wigan, dated 29 January 2016. The letter, which is on headed notepaper, states that the appellant had been attending Sunday gatherings since 10 January 2016 and an Alpha course on Tuesday night but not much was known about him. The other letter is from a man who identifies himself as an Elder of North London Iranian Church. It is not on headed note paper. It is dated 21 November 2016 and states that the appellant has been attending church since September 2016 and has started Alpha courses.

7. The appellant also submitted a detailed expert report from an expert on Iran, Anna Enayat, which considered the appellant's account and assessed the situation in Iran relevant to his claim.

Decision of the First-tier Tribunal

8. The judge did not find the appellant credible and did not accept he was a genuine convert to Christianity. The judge was critical of the appellant's evidence, repeatedly describing it as "vague" or "lacklustre."
9. The judge considered the evidence of Ms Enayat at paragraphs 16 – 22. He described the evidence as "generic" and found it to be of some, but only limited, value.
10. The judge identified a number of factors which, in his view, undermined the appellant's credibility. These include:
 - a) The appellant stated in the asylum interview that Christians accept Mohamed as a prophet (paragraph 24).
 - b) The appellant gave circular and vague answers to questions about the bible and Jesus (paragraph 25).
 - c) The appellant's responses to questions about miracles showed a lack of understanding about Christianity and were vague and noncommittal (paragraph 26).
 - d) The appellant's claim to have read the bible from beginning to end was "highly unlikely given its length" and it was troubling that he said he only read the bible when "bored or fed up" (paragraph 27).
 - e) Despite the asylum interviewer giving the appellant an opportunity to show his interest in Christianity, he gave vague and evasive responses (paragraph 28).
 - f) The appellant showed no inspirational, motivational or spiritual account in answering questions about his alleged new faith (paragraph 29).
 - g) The appellant was silent about what he has been doing recently (paragraph 30).
 - h) There was a discrepancy in the appellant's evidence about the Alpha course as he claimed to have attended two out of twelve sessions ending at Christmas but there were not enough weeks for the remaining sessions to take place within the time frame. The judge stated that "the appellant had not thought through his earlier answers and had become unstuck" (paragraph 32).

- i) No one attended from a church to support the appellant's case (paragraph 33).
 - j) The letter from the North London Iranian Church was of limited value as it appeared redacted or edited and included minimal information about the author or appellant (paragraph 34).
 - k) The letter from the church in Wigan was similarly of little value as it indicated the appellant had only attended on about three occasions and stated "we do not know much about him." (paragraph 35).
 - l) The absence of any up to date, enthusiastic support from either church casts doubt on whether the appellant has been attending church regularly, as claimed (paragraph 36).
 - m) The judge described the answer to a question about Christmas as being perfunctory and unimpressive (paragraph 37).
 - n) The appellant did not know if his relatives are Christian. The judge described this as odd, given his parents converted and he has sought their assistance (paragraph 38).
 - o) The appellant was ignorant of part of the bible and gave vague responses to questions (paragraph 39).
11. The judge concluded at paragraph 40 that the appellant was not a genuine convert before coming to the UK and at paragraph 42 that, since coming to the UK, he has not genuinely converted to or practiced Christianity.

Grounds of appeal and submissions

12. The grounds argue that the judge has improperly taken it upon himself to "look into the appellant's soul" and cite the following passage from SA (Iran) [2012] EWHC 2575 (Admin):

What appears to have impressed the immigration judge, and then the Home Secretary, is that the Claimant's conversion to Christianity was not regarded by him as genuine, and had been manufactured to assist her asylum claim. It is a dangerous thing for anyone, and perhaps especially a judge, to peer into what some call a man or woman's soul to assess whether a professed faith is genuinely held, and especially not when it was and is agreed that she was and is a frequent participant in church services.

13. The grounds also argue that the judge failed to consider the risk on return for a person who has professed to be a convert, even if not genuine. In support, the grounds cite the following from SA (Iran):

There must be a real risk that if she has professed herself to be a Christian, and conducted herself as one, that profession, whether true or not, may be taken in Iran as evidence of apostasy.

14. The grounds also take issue with the judge's credibility findings, arguing that:

- a) There was not a discrepancy about attending an Alpha course as the appellant stated he was not sure about the number of sessions.
- b) The appellant displayed a knowledge of Christianity that was not vague or lacklustre in parts of the asylum interview not highlighted by the judge.
- c) The judge failed to consider the appellant's account within his social and cultural background and having regard to his limited exposure to Christianity in Iran.

15. A further contention in the grounds is that the judge took over the role of the respondent by cross examining the appellant (and asking 34 questions) and failed to follow the Surendran guidelines.

16. At the error of law hearing, Ms Ostadsaffar argued that the judge described the appellant's evidence as "vague" and "lacklustre" seven times without ever explaining why. She maintained that it was an error of law to reject the appellant's appeal because he was vague and/or lacklustre without giving reasons to support such a finding.

17. Ms Ostadsaffar also argued that the judge erred by failing to recognise that the risk to the appellant arose from the fact of conversion without the need for there to be any other factors, such as evangelising, and that the on return the appellant could not be expected to lie and therefore would reveal he had sought asylum on the basis of converting (even if the conversion was not genuine) thereby placing him at risk.

18. Mr Tarlow argued that the judge had engaged with, and carefully assessed, the evidence, in particular the asylum interview, and had given the appellant every opportunity to demonstrate his credibility through appropriate questions. The appellant displayed only a superficial knowledge of Christianity and the judge was entitled to consider his evidence vague and lacklustre, and to reject his account of having genuinely converted.

Consideration

19. The central question in this appeal is whether the judge was entitled to find, on the evidence before him, and applying the correct burden and standard of proof, that the appellant did not genuinely convert to Christianity. Having considered the evidence that was before the judge, as well as his analysis of it, I am satisfied that it was open to him to conclude the conversion was not genuine, for at least two reasons.

20. Firstly, the appellant claims to have actively and regularly practiced Christianity since coming to the UK. However, the corroborative evidence

to support this is extremely limited, and falls significantly short of the guidance in Dorodian (01/TH/1537), where the importance of hearing evidence from a minister was emphasised. The only evidence to corroborate the appellant's attendance of church in the UK was a letter from a church he had been attending for less than a month in which the author stated that he knew little about the appellant and a letter from a person claiming to be an elder of a church that is not on headed note paper, is from an unclear source, and which gives very little information about the appellant or his involvement with the church. There was a paucity of evidence to support the appellant's claim to be attending church in the UK and the judge was entitled to take this into account, and attach substantial weight to it, in his assessment.

21. Secondly, the appellant gave confused and vague answers to various questions relating to his faith, both in the asylum interview and in response to the questions posed by the judge. I accept that the appellant, particularly at the time of his asylum interview, would, if his account is accepted, have had only a limited (or vague) understanding of Christianity. He had only recently become interested in the religion and had only attended two church services. The fact that his understanding of Christianity appears to be confused does not mean he is not genuine in his belief. However, it is clear from the decision that the judge has carefully considered the appellant's answers to questions about his faith (both in the asylum interview and orally before him) and, considering them together, reached the conclusion that the appellant's ignorance is not consistent with his own account of learning about the religion. I am satisfied that the judge was entitled to make this finding.
22. Ms Ostadsaffar was critical of the judge's use of the phrase "vague and lacklustre" and argued that the judge used it on seven occasions without explaining why the appellant was vague or lacklustre. Whilst I accept the judge has used the phrase in several places without an adequate explanation, reading the decision as a whole, it is apparent that the point the judge is making is that the appellant failed to give detailed, specific and clear answers to questions about his understanding of or activities as a Christian. For example, at paragraph 28, the judge evaluated the responses to the asylum interview and found that the appellant was vague and evasive. At paragraph 29 the judge noted the absence of any "inspirational, motivational or spiritual account". At paragraph 39 the judge stated that the appellant "gave vague responses in interview and before me to questions which one would expect to have elicited some level of detail regarding faith, inspiration or spirituality".
23. As listed in paragraph 10 above, the judge gave a range of reasons for not believing the appellant had genuinely converted. Individually, any one of the reasons may not have been sufficient to justify the judge's conclusion but cumulatively they support the judge's conclusion and I am therefore satisfied that the judge's conclusion that the appellant is not a genuine convert to Christianity was one that was open to him based on the evidence.

24. The grounds contend that the Surendran guidelines were not followed and the judge improperly “descended into the arena”. It was clear from the respondent’s refusal letter that the key issue at the hearing would be the veracity of the appellant’s claim to have converted. By posing questions relevant to this that arose from the evidence, the judge gave the appellant an opportunity to make his case and demonstrate he was being truthful. There is nothing in the decision that indicates the judge’s questioning was aggressive or improper and I do not consider this ground to have any merit.

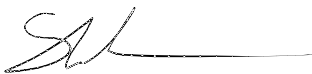
25. The grounds also argue that the judge failed to address the issue of whether the appellant would be at risk even if he did not genuinely convert to Christianity because he would be perceived as a Christian. The difficulty with this argument is that as the appellant’s account has been rejected there is no basis to believe that the Iranian authorities would perceive him to be a Christian. The appellant cannot be expected to lie upon return to Iran but if, as the judge found, he is not a Christian, then denying he has converted to Christianity would not be a lie. A recent country guidance case establishes that there is generally no risk on return for a failed asylum seeker from Iran. See SSH and HR (illegal exit: failed asylum seeker) Iran CG [2016] UKUT 00308 (IAC).

26. I am therefore satisfied that the judge was entitled to find that the appellant has not genuinely converted to Christianity and that he would not face a risk on return as a failed asylum seeker.

Decision

27. The appeal is dismissed. The judge has not made a material error of law and the decision of the First-tier Tribunal stands.

Signed



Deputy Upper Tribunal Judge Sheridan

Dated: 15 May 2017

