



**Upper Tribunal  
(Immigration and Asylum Chamber)  
PA/03681/2016**

**Appeal Number:**

**THE IMMIGRATION ACTS**

**Heard at** Glasgow  
**On** 4 May 2017

**Decision Promulgated  
On** 15 May 2017

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE DOYLE**

**Between**

**HEDAYAT HAAGHANI NOROULEH  
(ANONYMITY DIRECTION NOT MADE)**

Appellant

**and**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr A Devlin (counsel) instructed by Latta & Co,  
solicitors

For the Respondent: Ms M O'Brien, Senior Home Office Presenting Officer

**DECISION AND REASONS**

1. I have considered whether any parties require the protection of an anonymity direction. No anonymity direction was made previously in respect of this Appellant. Having considered all the circumstances and evidence I do not consider it necessary to make an anonymity direction.

2. This is an appeal by the Appellant against the decision of First-tier Tribunal Judge Clapham promulgated on 2 February 2017, which dismissed the Appellant's appeal.

### Background

3. The Appellant was born on 21 April 1981 and is a national of Iran. On 30 March 2016 the Secretary of State refused the Appellant's protection claim.

### The Judge's Decision

4. The Appellant appealed to the First-tier Tribunal. First-tier Tribunal Judge Clapham ("the Judge") dismissed the appeal against the Respondent's decision. Grounds of appeal were lodged and on 4 April 2017 Upper Tribunal Judge Coker granted permission to appeal stating

"It is arguable that the First-tier Tribunal Judge failed to make findings on firstly whether the appellant had converted and secondly what that conversion, if it occurred, would mean on return to Iran, in particular, on entry. Although the First-tier Tribunal Judge casts doubt on the credibility of the appellant's account of his attendance and evangelising, it is not clear what the outcome of those findings are in terms of the appellant's claim to conversion."

### The Hearing

5. (a) For the appellant, Mr Devlin moved the grounds of appeal. He took me straight to [58] to [68] of the decision, which, he told me contains the Judge's reasons. Mr Devlin focused on [67] and told me that despite the preceding 66 paragraphs of the decision, it is impossible to see what the Judge means by the first sentence of [67] nor how the Judge reached that conclusion. He told me that [67] creates an ambiguity in the decision because, on the one hand, the Judge decides that the appellant is not a convert from Islam, on the other, the Judge considers whether or not the appellant would evangelise.

(b) Mr Devlin told me that the principal problem is that, after discussing conversion, the Judge briefly moves on to consideration of evangelisation and, as a result, it is impossible for the informed reader to understand what the Judge's actual conclusion is. He relied on the grant of permission to appeal which, he says, proceeds on the same logic. In any event, Mr Devlin told me that there are no clear findings in relation to conversion, and inadequate consideration has been given to the risk created for the appellant on return.

(c) Mr Devlin told me that even if the appellant has not converted to Christianity, even if the appellant has not renounced Islam, it is the perception of the Iranians authorities which is relevant to the question of risk on return. He told me that the decision lacks consideration of the

perception of the Iranian authorities. He relied on R (SA Iran) v SSHD [2012] EWHC 2725; SSH & HR (illegal exit; failed asylum seeker) Iran CG [2016] UKUT 00308; and MSM (Somalia) v SSHD [2015] EWCA Civ 715.

(d) Mr Devlin next took me to the respondent's Country Policy and Information Note, Iran: Christians and Christian converts, version 3, February 2017 (in particular 8.1.1). He told me that the decision does not make it clear whether or not the Judge is satisfied that the appellant has converted from Islam and that, in any event, the Judge has not properly considered risk on return. He told me that those are material errors of law and urged me to set the decision aside.

6. (a) For the respondent, Ms O'Brien told me that the grounds of appeal and submissions from counsel for the appellant make it clear that the Judge's credibility findings go without challenge. At [68] the Judge found that the appellant is not a convert. She told me that finding is absolutely clear and beyond challenge. She told me that what is argued in support of the appeal is an argument which had not been placed before the First-tier Tribunal. Ms O'Brien took me to the skeleton argument prepared for the First-tier tribunal. That skeleton argument is 17 Pages Long. The caselaw Mr Devlin referred me to was not drawn to the First-tier Judge's attention. Arguments in relation to risk on return centred on illegal exit only. She told me that the question of the authorities' perception is not a Robinson obvious point.

(b) Ms O'Brien told me that the decision does not contain errors, material or otherwise. She told me that the decision is a carefully reasoned decision, containing clear findings of fact leading the judge to evidence-based conclusions, which are well within the range of conclusions available to the Judge. She urged me to dismiss the appeal and allow the decision promulgated on 2 February 2017 to stand.

### Analysis

7. Between [1] and [7] of the decision the Judge sets out the background to this appeal and summarises both parties' positions. Between [8] and [10] the Judge correctly sets out the relevant law and the grounds of appeal. At [11] the Judge records the documentary evidence that was placed before her, and then between [12] and [40] the Judge summarises the oral evidence. Between [41] and [54] the Judge records submissions which were made for both parties and at [55] the Judge declares that she would take a rounded assessment of each strand of evidence when considering credibility.

8. The Judge's findings and reasons are set out between [56] and [68]. Ms O'Brien is correct to say that there is no realistic challenge to the Judge's credibility findings. What is argued is that [67] creates an ambiguity. Permission to appeal was granted on the basis that it is arguable that the Judge has not made findings on whether or not the appellant has

converted, and what impact such conversion would have on return to Iran. The second sentence of the grant of permission to appeal asks whether or not the Judge's findings in relation to evangelising are properly brought to a conclusion.

9. Between [57] and [61] the Judge considers the appellant's account of his reasons for fleeing Iran and finds each aspect of that part of his account to be incredible. No challenge is taken to those findings. By the time the informed reader has read to the end of [61] of the decision, he will be in no doubt that the appellant's account of an attraction to Christianity and attending worship in Christian house churches in Iran is rejected. By the end of [61] of the decision, the Judge has made it clear that the appellant's account of fleeing Iran to avoid religious persecution is rejected.

10. Between [63] and [66] the Judge considers the account of the appellant's practice as either a Christian or a Jehovah's Witness in the UK. The Judge is critical of the appellant's account and sets out adequate reasons for those criticisms. Those criticisms are drawn into sharp focus by the second sentence of [68] where the Judge says

"As I have stated and as it is clear I do not believe the appellant has converted, therefore this aspect of his claim falls."

11. The Judge makes a clear and reasoned finding that the appellant has not converted from Islam.

12. The first sentence of [67] says

"It also appears to me that the appellant has overstated the fact that he will evangelise."

13. If the first sentence of [67] was viewed in isolation, the informed reader might wonder why the Judge has turned her attention from conversion to evangelisation, but it is wrong to take one sentence in isolation. A fair reading of the entirety of [67] makes it clear that the Judge is commenting on something that the appellant said. It was part of the appellant's evidence that he is driven to evangelise. It is correct for the Judge to analyse the evidence. When [67] is read in its entirety, it can be seen that the Judge is considering a drive to evangelise as part of the evidence of conversion. The Judge rejects the evidence of conversion, having considered each adminicle of evidence offered by the appellant to support his account.

14. It is also wrong to read [67] in isolation. There are 68 paragraphs to this decision. The decision must be read as a whole. When read as a whole it is clear that the Judge carefully analyses the evidence. Ms O'Brien is correct that there are no criticisms of the Judge's credibility findings. The Judge finds that the appellant lacks credibility and rejects his account. The Judge unambiguously rejects the appellant's account of conversion. As

part of that exercise, the Judge rejects the appellant's account of the drive to evangelise. It is clear that the Judge finds that the appellant's account is a fabrication.

15. What the Judge makes abundantly clear is that the appellant's case turned on the questions of credibility. The Judge sets out carefully balanced for reasons finding that she does not believe the appellant.

16. In Shizad (sufficiency of reasons: set aside) [2013] UKUT 85 (IAC) the Tribunal held that the Upper Tribunal would not normally set aside a decision of the First-tier Tribunal where there has been no misdirection of law, the fact-finding process cannot be criticised and the relevant Country Guidance has been taken into account, unless the conclusions the Judge draws from the primary data were not reasonably open to him or her.

17. In this case, there is no misdirection in law & the fact-finding exercise is beyond criticism. The decision is not tainted by a material error of law. The Judge's decision, when read as a whole, sets out findings that are sustainable and sufficiently detailed.

## **CONCLUSION**

**18. No errors of law have been established. The Judge's decision stands.**

## **DECISION**

**19. The appeal is dismissed. The decision of the First-tier Tribunal stands.**

Signed

Paul Doyle

Date 8 May 2017

Deputy Upper Tribunal Judge Doyle