



**Upper Tribunal  
(Immigration and Asylum Chamber)  
PA/06416/2016**

**Appeal Number:**

**THE IMMIGRATION ACTS**

**Heard at: Liverpool**

**Decision & Reasons**

**Promulgated**

**On: 9<sup>th</sup> November 2017**

**On: 5<sup>th</sup> December 2017**

**Before**

**UPPER TRIBUNAL JUDGE BRUCE**

**Between**

**ARG**

(ANONYMITY DIRECTION MADE)

Appellant

**And**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr S. Crowther, Counsel instructed by IAS (Manchester)  
For the Respondent: Mr Harrison, Senior Home Office Presenting Officer

**DETERMINATION AND REASONS**

1. The Appellant is a national of Iran born in 1985. He appeals with permission<sup>1</sup> the decision of the First-tier Tribunal (Judge Chana), who on the 24<sup>th</sup> March 2017 dismissed his appeal against the Respondent's decision to refuse his protection claim.
2. The basis of the Appellant's claim was that he had converted to Christianity and as such would face a real risk of serious harm in Iran because apostasy from Islam is considered a capital offence under Shia jurisprudence.

<sup>1</sup> Permission was refused by First-tier Tribunal ES Martins on the 24<sup>th</sup> April 2017 but was granted upon renewed permission by Upper Tribunal Judge Kekić

3. In rejecting his claim to be a genuine adherent of the Christian faith the First-tier Tribunal summarised the evidence of the Appellant, and his *Dorodian* witness the Reverend Paul Ronald Benson of the Atherton Baptist Church. The central ground of appeal is that in doing so, the Tribunal misrecorded – or alternatively misunderstood – their evidence to the extent that its findings cannot be considered safe. For instance, little weight is attached to Rev. Benson’s evidence because he is said to have testified that his church accepts the word of anyone who says that they have converted; in fact Rev. Benson’s evidence was that the true faith of converts is evaluated “through interaction and talking to them, their attendance, reading and understanding of scripture...there is no hard and fast rule”. The grounds further contend that the Tribunal failed to have regard to the evidence of another witness, the Reverend Pat Hinchliffe.
4. In its assessment of risk the Tribunal concluded that there was none, since there was no prospect of the Iranian authorities knowing that the Appellant had been attending church in the UK. The Judge concluded that the Appellant was not a Christian, *ergo* he was still a Muslim and could not be said to face any risk. The second limb of the Appellant’s challenge before me is that the Tribunal here failed to consider the undisputed fact that the Appellant had been baptised. As a matter of fact, he had formally converted and was therefore an apostate.
5. Before me the Respondent conceded that both grounds had been made out. The verbatim notes of Mr Uttara of the IAS had been produced, along with a signed witness statement by him. It was apparent from those notes, and indeed the prepared witness statements, that there was something of a divergence between the evidence given and the way it is recorded in the determination. The grounds give a number of examples but it suffices here to give one. At paragraph 29 the determination records the evidence as demonstrating that “anyone who comes to this church claiming to have converted to Christianity is believed”. Had that been the evidence of the *Dorodian* witness then the Tribunal would of course have been entitled to place little weight on their testimony. The whole point about *Dorodian* witnesses are that these are people who will be able to speak to the claimant’s commitment and sincerity, having had, over a long period of close interaction, an opportunity to assess those matters. Decision makers are not bound by their opinion, but it will ordinarily be the case that significant weight can be attached to it, because it will necessarily be an *informed* one. In this case it would appear that Judge Chana did not consider Rev. Benson (or indeed Rev. Hinchliffe who had given her evidence in writing having already attended an earlier hearing) to be so informed. The Appellant complains, with justification that in reaching that conclusion the Tribunal appears to have overlooked Rev. Benson’s evidence that he had known the Appellant for over a year, that the Appellant had been a regular attendee at services, bible study courses and coffee

mornings at the church. Rev. Benson gave the oral evidence summarised in the grounds (at para 3 above) and spoke in his witness statement of his evaluation of the Appellant's sincerity *inter alia* through his observation of his participation in services and the way that he lives his life. Reverend Benson's evidence was, in the end, pivotal to the overall determination in this case and it was therefore important that it was accurately recorded and assessed.

6. In respect of the second ground Mr Harrison conceded that the determination makes no reference to the most recent, and pertinent, country guidance of SSH and HR (illegal exit: failed asylum seeker) Iran CG [2016] UKUT 00308 (IAC). Therein the Upper Tribunal found that the standard practice faced by returnees to Iran is that they are questioned about their asylum claims. Should any particular concerns arise about those claims then the returnee will be transferred for further questioning in a detention facility where there will arise a real risk of serious harm. Although the First-tier Tribunal in this case directs itself to the principles in Danian [2000] IAR 96 it nowhere assesses the potential risk to the presumptively truthful returnee who would when questioned admit to having been baptised, a ceremony which if nothing else would denote a formal renunciation of Islam.
7. The errors alleged in the grounds having been made out, the parties invited me to remit this matter to the First-tier Tribunal. In light of the extent of the fact finding required, I agree.

### **Decisions**

8. The decision of the First-tier Tribunal contains a material error of law and it is set aside.
9. The decision will be remade *de novo* in the First-tier Tribunal.
10. There is an order for anonymity.

Upper Tribunal Judge Bruce  
9<sup>th</sup> November 2017