



**Upper Tribunal  
(Immigration and Asylum Chamber)  
PA/06575/2016**

**Appeal Number:**

**THE IMMIGRATION ACTS**

**Heard at Field House**

**Decision & Reasons**

**On 21 June 2017**

**Promulgated**

**On 4 July 2017**

**Determination prepared 21 June  
2017**

**Before**

**UPPER TRIBUNAL JUDGE MCGEACHY**

**Between**

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

Appellant

**and**

**HAA**

**(ANONYMITY DIRECTION MADE)**

Respondent

**Representation:**

For the Appellant: Mr P Deller, Senior Home Office Presenting Officer

For the Respondent: Mr B Bundock, Counsel, instructed by J D Spicer Zeb  
Solicitors

**DETERMINATION AND REASONS**

1. The Secretary of State appeals, with permission, against a decision of Judge of the First-tier Tribunal Ruth, who in a determination promulgated on 20 April 2015 allowed the appeal of HAA against a decision to refuse him asylum.
2. For ease of reference I will refer to the Secretary of State as the respondent as she was the respondent in the First-tier and similarly I will refer to HAA as the appellant.

3. The appellant is a citizen of Iran born on 9 February 1979. He arrived in Britain on 30 December 2015 and claimed asylum.
4. He asserted that in June 2009, while working as a taxi driver, his route had been blocked by a demonstration. He waited by the side of his vehicle as the demonstration continued but the government forces then arrived and began shooting at the demonstrators and although he had not taken part in the demonstration he ran away from the firing and was shot in the shoulder. He lost consciousness but awoke in detention and spent four months in detention being subjected to beatings and torture. He was never charged with an offence or questioned about his activities. Eventually after he had been transferred to hospital he had been released with a reporting requirement.
5. He was a member of the Qashqai tribe in south-western Iran and he worked in the mountains with members of his tribe as a shepherd for the next five years before deciding to leave Iran with the help of an agent.
6. When interviewed on 15 February 2016 he repeated the claim which I have set out above and was then asked if he had anything further to add. He said he had not. However, one month later his representatives, Migrant Legal Project, wrote to the respondent stating:

“Mr HA wishes to go on record that he has recently converted to Christianity. He was evangelised in the UK and baptised prior to his Home Office interview on 10 February 2016. Please find Mr A’s baptism certificate enclosed”.
7. The appellant was then interviewed for a second time on 1 June when he was asked questions regarding his conversion and about Christianity.
8. His application was refused on 9 June 2016. They did not accept that his claim was credible. The letter of refusal dealt first with his arrest and detention before turning to his claim that he had converted. It was pointed out that he had made no mention of his conversion to Christianity from Islam at his first asylum interview despite the fact that he had claimed to have been baptised five days before that interview, it was also pointed out that he could not name the church he had visited in Cardiff and that his replies had been vague and evasive, that he had been unable to name any passages of scripture in the Bible that he related to, and when asked about how God gave rules to his followers he had made no mention of Moses or the Ten Commandments, did not know who had baptised Jesus and did not know the names of the twelve disciples. It was not accepted that he had converted to Christianity.
9. The appellant appealed. His appeal came before Judge Ruth on 3 April 2017. Judge Ruth summarised the appellant’s claim and the refusal and noted that it had been accepted by the Presenting Officer that should he be found to be credible on either ground of his asylum claim - his experiences in Iran or his conversion of Christianity - he would be entitled

to asylum. The determination stated that the full record of the evidence was to be found on the Record of Proceedings. However, that is illegible.

10. The judge noted the submissions made by the Presenting Officer, who had asked him to find the appellant was not credible and had stated that the fact that he attended church did not mean that he was a genuine Christian.
11. In paragraph 31 onwards the judge set out his findings and conclusions. He said that he would first consider the sur place element of the appellant's claim relating to his alleged conversion to Christianity. He stated at paragraph 35:

“35. In this case I take the view that without the clearly credible evidence of Pastor Hawthorne, this appellant could not have been regarded as a genuine convert. I consider his account both to the respondent and to me of his alleged decision to abandon Islam for Christianity while in the UK was indeed vague as suggested by the respondent, particularly in relation to what seems to me to be the most important question.”

12. He added:

“36. It is fundamental in the case of alleged conversion not that the individual be able to give a detailed account of theological or practical matters in relation to the practice of the new religion, since such matters can be learnt in good or bad faith, but that a detailed and convincing account be given of the journey and commitment that has led a person to take the momentous decision of abandoning a life-long religion, particularly in a country such as Iran, for a different religion. In my view, this appellant was unable to give a convincing account of why he took such steps in the UK.

37. Furthermore, it is correct to say that in the interview with the respondent the appellant was unable to provide a coherent account of his alleged contact with churches and Christians in the UK or to explain whom he had approached, why he had approached them or what he was doing in various churches. I was struck by this vagueness in the context of a person who claims now to have decided to abandon the religion into which he was born and to adopt a different one.

38. Had I had only the evidence of the appellant I would have had no doubt whatsoever that his claimed conversion was false.

39. In this case, however, I had the evidence of Pastor H, supported also by the similarly credible evidence of his church volunteer Mr O. I have absolutely no doubt that their evidence was credible and that they believe the appellant is a genuine Christian convert. Nothing they said was undermined in cross-examination

and both gave detailed evidence about the appellant's involvement not only in Bible study and other 'religious' activities, but also in other church activities.

40. It is not necessary in these matters to reach any certain conclusions about credibility. I have significant doubts about the genuine nature of the appellant's claimed conversion in the United Kingdom, but those doubts are sufficiently allayed by the firm and convincing opinion of the other two witnesses. Their views were not only that he is a Christian convert, but that his involvement in wider church activities in their own personal experience convincingly demonstrates to them that he is now a practising Christian.
  41. I therefore conclude it would not be safe to reach the opposite conclusion in the light of the background information and I accept that at least some credence can be attached to the appellant's claim.
  42. In the light of the guidance in **Karanakaran**, that is sufficient to establish the credibility of the claim in terms of the profile to be assessed when considering any risk upon return.
  43. Having reached this conclusion, and given my findings below, I do not consider it necessary to make any assessment of the remaining aspects of the appellant's asylum claim."
13. The judge then referred to relevant country guidance and stated that it was accepted by the Presenting Officer that if the appellant was a genuine convert then he would face persecution. He therefore went on to allow the appeal.
  14. The grounds of appeal argue that the judge had not made a proper assessment of the initial part of the appellant's claim or any reason he advanced for having to flee his own country and that the judge had failed to make a finding on whether or not his true intentions were economically motivated or whether he was in genuine need of protection under the Refugee Convention. Moreover it was stated that the judge having stated that the appellant "could not have been regarded as a genuine convert" and having found that his responses to questions about his conversion were "vague" and that he had been "unable to give a convincing account of why he took such steps in the UK" was wrong to base his assessment solely on the evidence of the two witnesses. It was asserted that the judge had erred in finding the appellant credible on the basis of credibility of others as it was the appellant's account that required assessment and not that of the witnesses. It was argued that it was a misdirection to discount the failings of the appellant's evidence on the basis that he had managed to provide witnesses who believed his account.
  15. It was argued that the judge had failed to look at the evidence holistically by artificially separating the two aspects of his claim to be a refugee and

also in the separation of the evidence of the appellant and that of his witnesses.

16. At the hearing before me Mr Deller relied on the grounds of appeal. He stated that the appellant's evidence had clearly not impressed the judge and the judge had erred by not giving full attention to the way in which the appellant had presented himself or to ask himself the question of whether or not the appellant was telling the truth. If he considered that the appellant was not telling the truth, then he should have found that the appellant did not qualify for asylum. He also stated that it was clearly an error that the judge had not considered the claim holistically and, having looked at all the evidence, then reached a conclusion on the appellant's credibility.
17. In reply Mr Bundock having referred to a claimed concession by the Presenting Officer stated that the issue before the judge then came down to whether the appellant was a converted Christian. Moreover, there were issues relating to his illegal exit from Iran on which the judge could have made findings in favour of the appellant. He referred, in his Rule 24 statement, to the appellant's witness statement and evidence that he had had a gunshot injury and the evidence of the pastor of [ ] , C H and M O, the leader of the Bible study group there.
18. He stated that the judge had properly summarised the procedural history, properly directed himself with regards to the correct burden and standard of proof and having summarised the appellant's account, the Secretary of State's reasons for refusal and the evidence and submissions had properly directed himself with regard to the judgment in **Karanakaran**. He argued that the judge was entitled to state that had he only had the evidence of the claimant before him he would have rejected the claim but that he was entitled to place weight on "the clearly credible evidence of Pastor H" and the "similarly credible evidence of his church volunteer M O". The judge was entitled to state that he had absolutely no doubt that their evidence was credible and that they believed that the appellant was a genuine Christian and that his doubts about the appellant's conversion was sufficiently allayed by the firm and convincing opinion of the other two witnesses. He argued that in the light of the judgment in **Karanakaran** the judge was entitled to reach the conclusion which he had reached that the appellant was a genuine Christian.
19. He argued that the judge had not failed to give adequate reasons and that it was not correct for the Secretary of State to argue that the appellant's credibility was based on the credibility of others.
20. He argued that the judge had considered the appellant's account of events before leaving Iran and stated that it was not incumbent upon him to decide whether or not the appellant's intentions were economically motivated. He argued that it was not a material error of law to find that the claimant had a well-founded fear of persecution absent findings of fact about events pre-departure.

## **Discussion**

21. While I consider that it would have been appropriate for the judge to have considered all the appellant's claim it has not been argued before me or in the grounds of appeal that the concession to which he referred was not made by the Presenting Officer and therefore the judge was entitled to make a finding on the issue of the appellant's conversation to Christianity and, having accepted that the appellant had converted, then to allow the appeal.
22. It was incumbent upon the judge to state what he believed and what he did not and he did that having properly referred to the judgment in **Karanakaran.** While it is unfortunate that the judge completely ignored the appellant's evidence about his motivation for coming to Britain, he was entitled to focus on the issue of the question of the likelihood that the appellant would face persecution on return. He found that the appellant was a genuine convert, reaching that conclusion because he accepted the evidence of the supporting witnesses. He clearly had no concerns about their motivation. While it would not be difficult to be cynical, in the light of the appellant's lack of knowledge of Christianity and the lack of an explanation from him of why he decided to become a Christian, about their motivation, the judge, who correctly stated that he was not required to be certain about his findings and conclusions, did reach a decision which took into account all the evidence and cannot be considered to be perverse. I can only, in these circumstances, conclude that there is no material error of law in the determination.
23. I would add that I am concerned about the claim that the video of appellant's baptism has been placed on YouTube: if that is the case it shows extreme irresponsibility by whoever placed the video there.

## **Notice of Decision**

The appeal of the secretary of State is dismissed.

## **Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008**

Unless and until a Tribunal or court directs otherwise, the appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify him or any member of his family. This direction applies both to the appellant and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.

Signed



Date 3 July 2017

Upper Tribunal Judge McGeachy