



**Upper Tribunal  
(Immigration and Asylum Chamber)  
PA/10631/2016**

**Appeal Number:**

**THE IMMIGRATION ACTS**

**Heard at Field House**

**Decision & Reasons**

**On 20 April 2017**

**Promulgated**

**On 3 May 2017**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE SHERIDAN**

**Between**

**BBY**

**(ANONYMITY DIRECTION MADE)**

Appellant

**And**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation**

For the Appellant: Mr T. Hodson, Counsel instructed by Elder Rahimi  
Solicitors

For the Respondent: Mr I. Jarvis, 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 10 September 1990, who entered the UK clandestinely on 7 April 2016 and applied for asylum on the basis that he would be at risk on return to Iran because he converted from Islam to Christianity. The respondent did not accept that the appellant had genuinely converted to Christianity and dismissed the application. The appellant appealed to the First-tier Tribunal ("FtT") where his appeal was heard by FtT Judge Jerromes. In a decision promulgated on 25 November 2016, the judge dismissed the appeal. The appellant is now appealing against that decision.

### The Appellant's Claim

2. The appellant's claim, in summary, is that he was born into a strict Muslim family but from the age of seven felt negatively towards the religion. He claims that in August/September 2015 he told a friend, whom he visited on a farm, his misgivings about Islam and that the friend placed his hand on his head and said some words he did not understand. Five or six days later he felt calm. He returned to see the friend on another occasion and was taken to a church service at a farm. He claims to have attended the church service a total of three times and to have converted on the third visit.
3. He claims that he told a friend about his conversion and gave him a bible. Shortly thereafter the police went to his home (he thinks the friend informed on him). Fearing for his life, the appellant then left Iran, travelling to the UK on buses and lorries.
4. Since coming to the UK, the appellant claims to have used his new found freedom to study the bible, attend church and share his Christianity with others. He attends Hampstead Garden Suburb Free Church and has attended a bible study class at Tron Church, Glasgow.

### Decision of the First-tier Tribunal

5. The judge heard oral evidence from the appellant and Reverend Dr Tutton, the minister of Hampstead Garden Suburb Free Church. Reverend Tutton also submitted two letters in support of the appellant's claim. The evidence of Reverend Tutton was that the appellant has been attending services regularly, has made enquiries about being baptised and has introduced others to the church. The view Reverend Tutton was that the appellant is a sincere Christian.
6. Despite the evidence of Reverend Tutton, the judge did not accept the appellant had genuinely converted (or intends to convert) to Christianity.
7. The reasons the judge gave for rejecting the appellant's account of his conversion in Iran are that:

- a. There was no corroborative evidence of the conversion, despite the appellant having spoken to his uncle in Iran who he claims has made enquiries with the authorities.
  - b. The appellant was inconsistent as to the location of the farm based church he claims to have attended. At one point he claimed it was the same location as where his friend put a hand on his head, but elsewhere he refers to it being a different farm.
  - c. There are inconsistencies about the timing of the conversion.
  - d. The appellant claimed to have been given two bibles when there was no reason for this.
  - e. It was not plausible he would give a bible to his friend, who he knew was Muslim.
  - f. The appellant demonstrated little knowledge of Christianity at the screening interview.
8. The judge was also not persuaded by the appellant's claim to be practicing as a Christian in the UK. The judge accepted that the appellant attended Reverend Tutton's church but did not give weight to Reverend Tutton's evidence. The judge noted that Reverend Tutton "has always accepted at face value similar claims [to be a sincere Christian] by others". The judge highlighted that Reverend Tutton was unable to name any people the appellant had brought to the church.
9. The appellant had submitted an email from someone at Tron Church, Glasgow, concerning his attendance at a bible study group in April - May 2016. The judge placed no weight on this, her reason being that the email was from a personal account with no identification evidence.
10. Regarding the appellant's knowledge of Christianity at the asylum interview, the judge stated:

*"I accept he demonstrated knowledge of the Christian faith at the Asylum Interview but as the respondent points out such information is readily available and again must be viewed in the context of the appellant's general credibility and the other evidence"*

11. The judge also considered whether the appellant was at risk on return because he might come to the attention of the authorities in Iran, even if he is not a genuine convert, and concluded that this was unlikely.

### Grounds of Appeal

12. The grounds of appeal argue that the judge erred by giving weight to the absence of corroboration of the appellant's conversation when it is well recognised that asylum applicants are often unable to obtain documentary or other proof.
13. The grounds point to various alleged discrepancies and argue that the judge has failed to deal with the evidence properly. This includes that:
- a. The judge drew an adverse inference from the discrepancy in the appellant's account of the location of the farm based church when this

was clarified by the appellant. The grounds contend that the judge failed to consider the clarification.

- b. The judge found there to be an inconsistency in when the appellant converted to Christianity but the grounds argue this was very minor.

14. The judge described as “implausible” that the appellant would give a bible to a friend he knew to be Muslim. The grounds argue that the appellant explained why he gave his friend the book and that the judge has ignored this.

15. The grounds also challenge the judge’s adverse credibility finding on the basis of the appellant having a poor knowledge of Christianity when he arrived in the UK, when that was consistent with his account of having recently converted and having had only minimal opportunity to study the religion.

### Submissions

16. Mr Hodson argued that the judge erred by requiring corroboration. He maintained that the judge found against the appellant because his uncle did not corroborate the account of why the appellant fled Iran without recognising that the uncle was not involved in the conversion to Christianity. All the uncle could corroborate was how the appellant left Iran, which was not at issue. There was nothing of material significance that the uncle or indeed anyone else could corroborate.

17. Mr Hodson also argued that the judge had taken minor inconsistencies, for example about the date of conversion and location of the farm, and given these far greater significance than was warranted. In terms of the farm location, Mr Hodson argued that it is clear from the asylum interview that the apparent discrepancy was explained by the appellant, but the judge failed to consider this.

18. Mr Hodson also contended that the judge misunderstood the significance of the appellant giving a bible to his Muslim friend. This was part of the ‘emotional journey’ of the conversion. The judge, he argued, had made an adverse finding, without engaging with the evidence.

19. With regard to the sur place activities, Mr Hodson contended that the reasons for not giving weight to Reverend Tutton’s evidence were inadequate.

20. Mr Jarvis responded by arguing that the judge had delivered a fully reasoned decision, where she engaged with the material evidence, and that the complaints in the grounds are merely disagreements.

21. In respect of corroboration, Mr Jarvis argued that the judge was entitled to identify, and draw an inference from, the lack of corroboration. He cited in support of this proposition TK (Burundi) [2009] EWCA Civ 40. He argued that the appellant’s uncle was not a peripheral figure, and he could have commented on the claimed conversion and knowledge of Christianity.

22. Mr Jarvis also argued that the judge was entitled to find the appellant not credible based on the various findings looked at cumulatively. He referred to Y v SSHD [2006] EWCA Civ 1223 where the Court of Appeal commented on what is involved in a credibility assessment and stated that a judge should look at the issue of credibility in the round “based on an accumulation of points”.

### Consideration

23. Reading the decision as a whole, it is apparent that the judge, in reaching her conclusion as to the appellant’s credibility, has placed significant weight on the absence of corroboration of events in Iran. At paragraph 41 the judge set out her reasons for not accepting that the appellant converted to Christianity. The first of her reasons (at paragraph 41.1) is that:

*“There is no corroborative evidence of [the conversion in Iran] and while I am conscious this is an asylum claim, on the other hand [the appellant] has spoken to his uncle (who he says made enquiries regarding the authorities alleged interest in him and arranged his trip to the UK) and such evidence is readily obtainable but has not been produced”.*

24. The judge made a further reference to the absence of corroboration at paragraph 42, where she stated:

*“At the screening interview [the appellant] said his ‘uncle and brother looked into [the police going to his home]’ but there is no evidence before me from either his uncle (with whom he has been in touch since he came to the UK) nor his brother.”*

25. It is unclear what corroborative evidence the appellant could have obtained. His claim was that he had a spiritual experience with a friend, who then took him to a home based church located on a farm on three occasions, where he was given two bibles, and that he told another friend about his conversion. There is no documentary evidence that would typically be generated by the events as described by the appellant and therefore it is unclear what corroboration the judge was expecting.

26. If the reference to corroborative evidence at paragraph 41.1 of the decision (cited above, at paragraph 23) is to the absence of a witness statement from the appellant’s uncle, it is difficult to see how this is material. The appellant’s case was not that his uncle was involved in or aware of the rationale for the conversion. The only involvement of his uncle was in assisting in his escape from Iran and then looking into what happened with the police. A statement from the uncle would not have provided meaningful corroboration to support the appellant’s account of developing an interest in and then converting to Christianity.

27. In an asylum appeal, the absence of corroborative documentary evidence, where such evidence can reasonably be expected, can be relevant to

credibility. See ST (Corroboration – Kasolo) Ethiopia [2004] UKIAT 119. This point was made clear in TK (Burundi), which although not an asylum claim stated that:

*“where there is no credible explanation for the failure to produce [ ] supporting evidence it can be a very strong pointer that the account being given is not credible”.*

And that judge’s should:

*“adopt a cautious approach to the evidence of an appellant where independent supporting evidence...is readily available within this jurisdiction, but not provided.”*

28. In this appeal, there was unlikely to be supporting evidence (documentary or otherwise) to substantiate the appellant’s account of converting to or developing an interest in Christianity whilst in Iran and such evidence would not, in any event, be readily available within the jurisdiction as was the case in TK (Burundi). In these circumstances, it was an error of law to give weight to the absence of corroboration in the assessment of the appellant’s credibility.

29. Credibility was the central issue in the appeal. As the error concerned the judge’s assessment of credibility, it was material to the outcome. Accordingly, the decision cannot stand. Given that credibility will need to be considered afresh, I have decided to remit the appeal to the FtT.

### Decision

30. The decision of the First-tier Tribunal contains a material error of law such that it should be set aside in its entirety and the appeal heard afresh.

31. The appeal is remitted to the First-tier Tribunal for hearing afresh before a judge other than First-tier Tribunal Judge Jerromes.

Signed



Deputy Upper Tribunal Judge Sheridan Dated: 28 April 2017