



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: PA/02672/2018

THE IMMIGRATION ACTS

Heard at Field House  
On 7<sup>th</sup> November 2018

Decision & Reasons Promulgated  
On 19<sup>th</sup> November 2018

Before

DEPUTY UPPER TRIBUNAL JUDGE SAFFER

Between

MF  
(ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Gayle, Counsel

For the Respondent: Mr Lindsay, a Home Office Presenting Officer

DECISION AND REASONS

1. 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 court directs otherwise, no report of these proceedings or any form of publication thereof shall directly or indirectly identify the Appellant. The direction applies to, amongst others, all parties. Any failure to comply with the direction could give rise to contempt of court proceedings.

Background

2. The Appellant claimed asylum on 11<sup>th</sup> August 2017. The claim was refused on 7<sup>th</sup> February 2018. The matter came before Judge James of the First-tier Tribunal on 12<sup>th</sup> July 2018. The appeal was dismissed.

3. Permission to appeal was granted by Judge Smith on 6<sup>th</sup> September 2018 on two grounds. Firstly, the adverse credibility finding at [22] that the Appellant would not have hosted house church meetings in his family home is arguably based on a flawed premise as it was the Appellant's evidence that he had moved out of his family home away from his strict father at this stage. Secondly, the Judge misapplied Mibanga [2005] EWCA Civ 367 in that the evidence of Reverend Hooper was found to attract little weight largely on the basis that the Appellant's prior account had already been found to be lacking.

#### The Respondent's submissions

4. There was no Rule 24 notice filed by the Respondent. Mr Lindsay submitted that in relation to ground 1 there is no material error, despite him misconstruing the Appellant's evidence, as the Judge found he had not conducted such meetings at his family home which is what the Appellant had said.
5. In relation to the second ground, the Judge said at [20 and 26] that he looked at the evidence in the round before considering the evidence of Reverend Hooper. He gave clear and persuasive reasons for finding that Reverend Hooper's evidence carried little weight at [27 to 29]. In summary these were that Reverend Hooper accepted a narrative that was not credible, he had only had 3 or 4 conversations with him, the Appellant had only introduced Iranian asylum seekers to the church, he had not told Reverend Hooper about his contact with family and friends, and Reverend Hooper only checks basic information and knowledge before baptising an individual.

#### Appellant's submissions

6. Mr Gayle submitted that the Judge did not read the Appellant's evidence adequately. The Judge erred in suggesting that the Appellant had held church house meetings at his home as he had said he had already left home in the statement where he rebutted the refusal letter and also in his statement for the appeal. Likewise, the Judge had not read the interview adequately as the Appellant at question 143 explained about his evangelising and why he did that to a named individual and this has not been reflected in the judgment. Nor has the Judge considered the Appellant's evidence in relation to the individuals who came to the house church at question 157.
7. Mr Gayle submitted that having rejected the evidence as to what the Appellant had done, he then considered Reverend Hooper's evidence and whilst the Judge said he considered the evidence in the round, he had separated Reverend Hooper's evidence off and only considered that after he had considered the Appellant's account.

#### Discussion

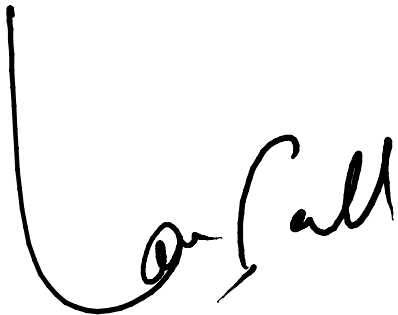
8. I am satisfied that the Judge materially erred. In relation to the first ground. I accept that the Judge misunderstood the Appellant's case. The Appellant had clearly stated that he had left home before attending house church meetings and nowhere does he suggest he had these at his own house. The fact that the Judge found the Appellant did not have meetings at his house was because he simply did not believe the Appellant's account. Whilst the Judge does not have to recite every piece of evidence,

he/she must deal with important points. I agree with Mr Gayle that the Judge did not adequately consider the written evidence and the evidence within the interview as to the Appellant's interaction with others in Iran which is a key part of the evangelising issue relevant in this case.

9. In relation to the second ground I accept that there is a material error of law in the way the Judge assessed the evidence of Reverend Hooper. He made findings in relation to the Appellant's credibility and then went on to consider Reverend Hooper's evidence in light of those findings. The two things are entirely separate. Even if the Appellant was not credible about what had happened to him in Iran, Reverend Hooper may be right that the Appellant had converted to Christianity. Despite having said twice that the evidence was looked at in the round, I am not satisfied that the Judge considered the evidence of Reverend Hooper prior to finding that the Appellant had not established it was reasonably likely he had converted to Christianity.
10. I agree with both representatives that bearing in mind these are primary findings of fact, the matter should be remitted for a de novo hearing.

Decision

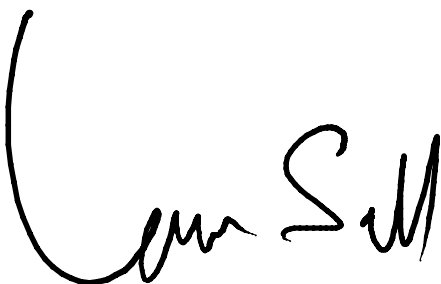
11. The Judge made a material error of law. I set aside the decision. I remit the matter for a de novo hearing in Birmingham.



Deputy Upper Tribunal Judge Saffer  
13 November 2018

FEE AWARD

No fee is paid or payable and therefore there can be no fee award.



Deputy Upper Tribunal Judge Saffer  
13 November 2018

