



**Upper Tribunal
(Immigration and Asylum Chamber)**

Appeal Number: PA/03735/2016

THE IMMIGRATION ACTS

Heard at Birmingham

On 22 February 2018

**Decision & Reasons
Promulgated
On 28 March 2018**

Before

DEPUTY UPPER TRIBUNAL JUDGE DAVEY

Between

**M M N
(ANONYMITY ORDER CONTINUED)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr J Dixon, counsel instructed by Paragon Law

For the Respondent: Mrs H Aboni, Senior Presenting Officer

DECISION AND REASONS

1. The Appellant, a national of Iran (Islamic Republic of), date of birth [] 1997, appealed the Respondent's decision to refuse an application for asylum on 21 March 2016. The appeal came before First-tier Tribunal Judge James (the Judge) who, on 3 April 2017, dismissed the appeal.

2. The permission to appeal was given on 18 August 2017 by Acting Resident Judge Appleyard and the Respondent made a Rule 24 response on 27 September 2017. The grounds recite with helpful brevity the challenges to the judge's decision which can be summarised as follows. First, failing to make any material findings on the Appellant's claimed political opinions, a failure to deal with the country expert evidence report, a failure to address medical evidence concerning the Appellant's mental health and failing to make findings of fact upon key issues. Making erroneous judgements about the reliability of witnesses when there was no evident basis to do so. Other grounds essentially argue that the Judge made poor assumptions which were misplaced and his approach to the assessment of the evidence, particularly of Mr and Mrs [K], demonstrated a lack of understanding of the nature of the case being put and the significance of their evidence in the assessment of the credibility of the Appellant's claim to have converted to Christianity. In addition it was said, bearing in mind the age of the Appellant at the material times and his recollection of events before he left Iran, that the Judge should have given greater care to the assessment of the child Appellant's age as a material factor when balancing the totality of the evidence.
3. Mrs Aboni argued that the Judge did fail to deal with the political aspects of the claim, namely the Appellant's political opinions but other than that there was no error of law by the Judge. He was entitled to reach the conclusions that he did for the reasons he gave on those other aspects of the claim. It is trite law that a person is entitled to adequate and sufficient reasons as to why his appeal has failed or succeeded, as is indeed the Respondent. In this case it seemed to me that the Original Tribunal's errors in addressing the evidence, in assessing it and in coming to conclusions with proper and adequate reasons upon it are significant. In particular the failure to address the evidence of Mr and Mrs [K] concerning the Appellant's participation in the church and their assessments of him; particularly Mr [K]'s assessment of the Appellant being genuine in his conversion to Christianity. These were matters which were not challenged

with the [K]s, nor was it raised by the Judge in such a way so that the matter might have been addressed by those witnesses, let alone in the closing submissions made.

4. In other respects it is patently obvious that the medical evidence should have been addressed. If it was to be rejected so be it, but the absence of dealing with those matters is a significant error in its own right and shows that the Original Tribunal's decision cannot stand. I find that there are material errors of law by the Original Tribunal and the matter will have to be remade.

DECISION

Appeal allowed to extent matter is to be remade in the FtT.

DIRECTIONS

1. Relist in the First-tier Tribunal in Birmingham. No findings of fact to stand. Not before First-tier Tribunal Judge James.
2. Please list for three hours.
3. Any further statements of any witnesses or any new additional witnesses to be served not later than fourteen working days before the further hearing. The identity and nationality of any additional witnesses to be provided to the Respondent in advance of the further hearing, in particular as to their status in the UK.
4. List for a telephone PTR in the First-tier Tribunal list in Birmingham.

ANONYMITY ORDER

An anonymity order was made and it is continued.

**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 20 March 2018

Deputy Upper Tribunal Judge Davey