



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

Appeal Number: PA/07727/2017

THE IMMIGRATION ACTS

**Heard at Field House
On 8th March 2018**

**Decision & Reasons Promulgated
On 27th March 2018**

Before

DEPUTY UPPER TRIBUNAL JUDGE D E TAYLOR

Between

**MRF
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms A Radford of Counsel, instructed by Duncan Lewis & Co
Solicitors

For the Respondent: Mr S Walker

DECISION AND REASONS

1. This is the appellant's appeal against the decision of Judge Oliver made following a hearing at Hatton Cross on 15th September 2017.
2. The appellant came to the UK unlawfully on 30th November 2016 and claimed asylum on arrival on the grounds that he feared persecution on return to Iran because of his conversion from Islam to Christianity. The Secretary of State refused his application on 18th July 2017. She did not believe that the appellant had in fact converted to Christianity and accordingly concluded that he would not be of interest to the authorities.

3. The judge set out the evidence, which included medical evidence from a doctor who concluded that the appellant suffered from a schizoaffective disorder and PTSD.
4. The judge stated, at paragraph 31, that the appellant was in the early stages of his conversion and had never sought to convert others in Iran. Later, at paragraph 36, he said that he could not rule out the possibility that he may well be interested in converting but the background evidence did not establish that he would be at risk. He dismissed the appeal.
5. The appellant sought permission to appeal on a number of grounds.
6. First, it was said that there had been an agreement between the parties that a genuine conversion would put the appellant at risk of prosecution but that agreement was not recorded in the determination. Counsel produced her note of the hearing which states that the issues had been narrowed down to the issue of credibility and record the Presenting Officer's submission that it was accepted that Christian converts would be at risk of prosecution on a return even if not persecution. It was therefore a matter for the judge to decide whether prosecution for apostasy would engage the Convention, which he did not do.
7. Furthermore he had failed to make factual findings on material matters in issue, failed to properly apply the case law and had failed to treat the appellant as a vulnerable witness.
8. Permission to appeal was initially refused by Judge Pickup but upon renewal was granted by Judge Coker on 23rd January 2018.
9. At the hearing Mr Walker said that he was in a difficult position so far as Counsel's note was concerned because there was nothing in the Presenting Officer's notes in relation to any concession. He did however accept that the judge had been ambiguous in his findings in relation to the conversion which was a material error of law.
10. The decision of Judge Oliver is set aside.
11. He erred in law in failing to make clear findings on material matters in issue. There may well have been further errors in his approach but it is unnecessary to make a decision on them since it has been accepted by the respondent that the decision needs to be remade by a judge other than Judge Oliver.
12. Accordingly the appeal is remitted to the First-tier Tribunal for a de novo hearing at Taylor House on a date to be notified.

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 their 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.

Deborah Taylor

Signed

Date 25 March 2018

Deputy Upper Tribunal Judge Taylor