



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: PA/10494/2016

THE IMMIGRATION ACTS

Heard at Field House  
On 22 January 2018

Decision & Reasons Promulgated  
On 20 February 2018

Before

DEPUTY UPPER TRIBUNAL JUDGE ESHUN

Between

HRF  
(ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr K Behbahani, Behbahani & Co Solicitors  
For the Respondent: Ms A Holmes, HOPO

DECISION AND REASONS

1. The appellant appeals with permission against the decision of First-tier Tribunal Judge Spicer to dismiss his appeal against the refusal of the respondent to grant him asylum in the United Kingdom.
2. The appellant is a citizen of Iran born on 28 August 1983. He arrived in the United Kingdom on 17 June 2014 and claimed asylum on the same day. His claim was refused on 14 October 2014, and his appeal was dismissed on 5 December 2014 by IJ Birkby. The appellant's application for permission to appeal the First-tier decision was refused on 28 January 2015.

3. The appellant lodged further submissions on 18 February 2016 claiming a well-founded fear of return to Iran due to his conversion to Christianity. The fresh claim was refused on 7 September 2016. The respondent accepted that the appellant was a citizen of Iran but did not accept that the appellant had genuinely converted from Islam to Christianity and it was not accepted that he was a genuine Christian. It was not accepted that the appellant had evangelised in the United Kingdom, or that he would evangelise on return to Iran. It was not accepted that the appellant had a well-founded fear on return due to his religion.
4. The respondent accepted that the appellant had demonstrated sufficient knowledge of the churches he attended, and it was accepted that he had been baptised on 28 June 2015.
5. At the hearing before the judge the appellant gave oral evidence; as did Reverend Milton Danil of Elim Iranian Church in support of the appellant.
6. The judge applied the guidance in Devaseelan. She stated that the determination of IJ Birkby stood as an assessment of the appellant's claim at the date of the determination. The judge accepted all the findings of fact made by IJ Birkby.
7. The judge stated at paragraph 57 that the only new evidence supplied by the appellant consisted of corroboration of his attendance at church, and evidence of his baptism.
8. Mr Behbahani challenged this finding arguing that the appellant provided corroboration of three essential ingredients in his case. Firstly, he provided evidence that he was living a Christian life by those who have regular contact with him; secondly, evidence of his affiliation with the life of the church, participating in prayers and sharing the good news with other Christians; and thirdly, corroboration of his sincerity with his faith outside the church. In the light of this evidence Mr Behbahani submitted that the judge was wrong to limit her consideration to the evidence that she identified at paragraph 57, namely the appellant's attendance at church and evidence of his baptism.
9. At paragraph 60 the judge accepted that the appellant attends the Iranian Church in Brighton on Monday evenings. She also accepted that the appellant attends Calvary Evangelical Church in Brighton and was baptised on Sunday 28 June 2015. The judge found that the appellant's evidence of church attendance was supported by the oral and written evidence of Reverend Milton Danil and by Mr Benjamin Alltimes, a member of the pastoral staff at Calvary Church (P337 of the respondent's bundle) and Pastor Philip Wells of Calvary Church (p.410 of the respondent's bundle).
10. At paragraph 61 the judge said that the appellant provided a letter from Mr Wesley Goh, stating that the appellant has been involved in the International Café, and has shared his Christian faith with Muslims (p.411 of appellant's bundle). The judge placed little weight on the letter because, on his own evidence the appellant has not

evangelised other people. He stated only that he had spoken to two Iranians on one occasion at the International Café.

11. In challenging the judge's finding at paragraph 61, Mr Behbahani questioned the judge's understanding of what was meant by evangelical activities. He referred to a letter from Mr Phillip Wells, the Minister of Calvary Evangelical Church, dated 31 May 2017. At paragraph 2 Mr Phillip Wells said:

*"On the subject of 'evangelising' - (see HRF's Witness Statement paragraph 6). Evangel is the Greek word for 'good news' and evangelism/evangelise refers to the act of spreading good news of Jesus Christ. This may range from formal prepared proclamation (preaching), to campaigns and special projects (such as visiting houses door to door), through to informal conversations about Jesus Christ in which the speaker is clear about his or her allegiance to Jesus Christ. The word 'evangelical' in its proper sense means 'a person who adheres to the content and doctrines of the good news of Jesus Christ'".*

He went on to say that there is no requirement on members of evangelical churches to preach, or to engage in campaigns, but it is expected that members will speak informally about their faith. The witness statement in paragraph 6 is correct.

12. In light of what Phillip Wells said in his letter, Mr Behbahani said that evangelising is not as stated by the judge, meaning going out to the streets and preaching.
13. Mr Behbahani also referred to a letter from Mr Benjamin Alltimes the Deacon at Calvary Evangelical Church dated 1 June 2017. Mr Alltimes said as to the matter of evangelising,

*"we do believe that it is the biblical duty of every Christian to spread the message of Christianity, however we do not require our members to do this in a formal, organised way such as taking part in evangelistic campaigns or events, going out with the sole intention of talking to people about their faith etc. Some members of our church choose to participate in organised evangelistic endeavours but many others do not and are not compelled to do so by our understanding of the Bible's teaching or by the leadership of our church. However, we do believe that all Christians should be ready to talk informally about their faith when opportunities present themselves."*

14. In the light of this evidence Mr Behbahani submitted that the judge was wrong at paragraph 61 to place little weight on the evidence of Mr Wesley Goh.
15. Mr Behbahani also challenged the judge's finding at paragraph 62. The judge said she noted that the letter from Pastor Wells at p.410 of the respondent's bundle provided only factual evidence relating to the appellant's church attendance (every other week since his baptism, and attendance at informal sessions every two weeks). The judge said the evidence of Pastor Wells relating to the appellant's church attendance suggested that the appellant was a less regular attender than stated by the appellant in his own evidence. The judge said Pastor Wells made no comment on the genuineness of the appellant's conversion.

16. Mr Behbahani said that the judge erred in law in failing to consider a second letter from Pastor Wells at page 333 of the appellant's bundle. In paragraph 3 of his letter Pastor Wells concurred with the appellant's witness statement that the genuineness of someone's deeply held faith could not be measured by the amount of propositional knowledge of Christian teaching and extra biblical traditions that they possess. Mr Behbahani said what Pastor Wells was saying was that the appellant was a genuine convert to Christianity. At paragraph 4 of his letter Mr Wells confirmed that the appellant was a member of the Christian Church in the sense that he has been baptised and would be welcome to participate at the Lords Supper which in the Anglican term is the "Eucharist".
17. Mr Behbahani submitted that probably the judge was expecting a simpler statement from Mr Wells saying that the appellant is a genuine convert. In any event his argument was that the judge did not consider this letter at all or in totality with the letter she was referring to at page 410 of the respondent's bundle.
18. Mr Behbahani also challenged the judge's findings at paragraph 63. The judge said that she accepted the evidence of Reverence Milton Danil, that he has observed the appellant to be a regular attender at the Iranian Church service on Monday evenings. However, Reverend Milton Danil is based in Croydon and has no contact with the appellant outside with the Monday evening services, such that he was unable to comment on the appellant's practise of the Christian faith outside of the attendance at Monday evening services.
19. Mr Behbahani submitted that these findings are belittling the appellant's evidence of the practise of his Christian faith. In the letter from Reverend Milton Danil dated 31 May 2017 he said that he had heard many good things about the appellant's character and behaviour from others and he himself testifying this. In his opinion this cannot be, unless the appellant has committed himself to Our Lord Jesus Christ. Mr Behbahani submitted that the judge again failed to consider this evidence in the round. Failure to consider this evidence undermined the judge's findings at paragraph 63.
20. Mr Behbahani submitted that whilst Pastor Wells has not expressed his view as to the genuineness of the appellant's conversion in simpler terms, other pastors have done so, such as Reverend Danil who has expressed such genuineness on three occasions; twice in writing and once in oral evidence. In the penultimate paragraph of his letter dated 9 December 2015 in the respondent's bundle, Reverend Danil said that in his opinion the appellant has committed himself to the Lord Jesus Christ. Deacon Benjamin Alltimes in his letter of 30 December 2012 believed the appellant's conversion was sincere. Mr Behbahani said there was no indication in the findings that the judge considered such expressions of sincerity and genuineness.
21. Mr Behbahani also challenged the judge's findings at paragraph 66. The judge said that following the determination of IJ Birkby, the appellant has continued to attend church services and social events. The judge accepted that the appellant was

baptised on 28 June 2015. However, the previous findings of IJ Birkby cast doubt on the credibility of the appellant. The judge said the appellant has not been involved in proselytising activities. The judge also placed weight on the fact that Pastor Wells had made no comment on whether or not the appellant's conversion was genuine, when he might have been expected to do so.

22. At paragraph 67 the judge held that taking account of all the evidence in the round, the appellant's conversion was self-serving, and did not find that it was a genuine conversion. However, the judge accepted that the appellant attends church, has been baptised and has a wide knowledge of Christian doctrine.
23. Mr Behbahani referred to a letter from Pastor K Ariaman of Holland Road Baptist Church in Hove dated 21 December 2015. Pastor Ariaman said that whilst he was attending the Alpha course with the appellant, he realised that he was also attending the Calvary Church, which was also near where he lived and with his blessing, the appellant was baptised on 28 June 2015. Mr Behbahani again referred to Benjamin Alltimes' letter of 13 December 2015 in which he described all the positives he sees in the appellant, not just participation but also living the Christian life. He described the appellant as a dear friend and brother. Mr Behbahani referred to a letter from Tim Ison of the United International Café. He said the United International Café is a free evening hosted by members of the Holland Road Baptist Church for international students based in Brighton and Hove. The appellant has been known to him and the team of around twelve volunteers at the café since he started attending around September 2014. He has been a regular attendee most Wednesday evenings since this time and is a valued and well-respected member of the café. Mr Behbahani relied on the letter from Wesley Goh dated 13 February 2016 also confirming the appellant's attendance at their church services and his involvement with the Calvary International Café. Wesley Goh said the appellant loves studying the Bible and for this reason, in February 2015, he started a Bible study group with the intention to help him and another Chinese man to understand the Bible in English. This group has grown into an international Bible study group and he is still attending it regularly. Wesley Goh went on to say that the appellant enjoys being part of the church family and has decided to commit himself to the Christian faith and was baptised at Calvary Evangelical Church in June 2015. He is always willing to follow the teachings in the Bible and of Christ to be a kind, helpful and honest person.
24. Mr Behbahani submitted that all these testimonies from various members of the churches that the appellant has involvement with, have not been challenged by the respondent. The judge's failure to consider such key evidence equates to a material error of law.
25. Mr Behbahani submitted that in the assessment of risk on return, the respondent stated that it is clear that if the appellant's claim to be Christian convert is genuine and he was returned to Iran, he would be at risk due to the alleged conversion to Christianity and the fact that he claims that he intends to proselyte other Iranians in the community. Mr Behbahani said that this was repeated by the HOPO at the

hearing. In this context it was not open to the judge to go beyond what has been accepted by the respondent. Mr Behbahani further relied on the grant of permission in which UTJ Kopieczek said that he was satisfied that the FTJ arguably erred in law in her conclusion that as a convert to Christianity, the appellant would not be at risk on return to Iran. Additionally, there was arguable merit in the contention that even absent a genuine conversion, the appellant's social media profile would put him at risk.

26. Ms Holmes submitted that the judge's reasoning was insufficient. She submitted that the judge did not deal with the welter of positive evidence. She agreed with the submissions made by Mr Behbahani.

### **Findings**

27. In the light of the submissions made by Mr Behbahani and Ms Holmes' agreement with those submissions, I find that the judge made material errors of law for the reasons identified by Mr Behbahani.
28. I find that the judge did not deal with the welter of positive evidence which supported the appellant's claim that he was living the Christian life, that he actively participates in the life of the church through prayers and sharing the good news with others and the evidence supporting the sincerity of his faith.
29. I find that had the judge taken all the evidence into account, she would have come to a different conclusion. Indeed, the judge accepted that the appellant had demonstrated sufficient knowledge of the churches he attended and had been baptised.
30. On the evidence, I find that the judge erred in law in her conclusion that as a convert to Christianity the appellant would not be at risk on return to Iran.
31. Accordingly, I find that the judge's decision cannot stand. I remake the decision.
32. I find on the evidence drawn to my attention by Mr Behbahani that the appellant's conversion from Islam to Christianity is genuine.
33. At paragraph 20 of the refusal letter the respondent stated that it is clear that if the appellant's claim to be a Christian convert is genuine, and he were to return to Iran, he would be at risk due to the alleged conversion to Christianity and the fact that he claimed he intended to proselytise to other Iranians in the community.
34. In light of my finding that the appellant's conversion to Christianity is genuine, I find that the appellant would be at risk on return to Iran by virtue of his conversion to Christianity.

**Notice of Decision**

35. The appellant's appeal is allowed.

**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.

Signed

Date: 15 February 2018

Deputy Upper Tribunal Judge Eshun