



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: PA/11048/2016

THE IMMIGRATION ACTS

Heard at Glasgow
on 5 July 2018

Decision & Reasons Promulgated
On 9 July 2018

Before

UPPER TRIBUNAL JUDGE MACLEMAN

Between

[O M]

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

For the Appellant: Mr T Haddow, Advocate, instructed by Quinn Martin & Langan,
Solicitors
For the Respondent: Mr A Mullen, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. The respondent refused the appellant's protection claim for reasons given in a decision dated 30 September 2016.
2. FtT Judge Mozolowski dismissed the appellant's appeal by a decision promulgated on 22 November 2017.
3. Deputy UT Judge Saini granted permission to appeal to the UT on 25 February 2018.

4. Mr Haddow's written submissions dated 4 July 2018 frame the appellant's case under 3 headings of error: 1, the analysis of events in Iran; 2, the approach to credibility; and 3, the approach to independent evidence of conversion.
5. In course of submissions, Mr Mullen conceded that paragraph 24 gave no good reason for its conclusion that the appellant's claimed introduction to Christianity through his friend [B] did not happen, and that similar absence of reasoning was identifiable in the conclusions stated at paragraphs 25, 26, 27 and 28; that ground 1 established that the decision could not safely stand; and that the case should be remitted.
6. Mr Haddow referred to *Karanakaran* [2000] EWCA 11 on the categories of evidence to be assessed by decision-makers, ranging from:
 - (1) evidence they are certain about;
 - (2) evidence they think is probably true;
 - (3) evidence to which they are willing to attach some credence, even if they could not go so far as to say it is probably true; to
 - (4) evidence to which they are not willing to attach any credence at all.
7. Evidence in category (3) is not excluded from the decision. The decision-making body must not exclude matters:

'... unless it feels that it can safely discard them because it has no real doubt that they did not in fact occur.'
8. On general principles about decisions based on credibility or plausibility Mr Haddow referred to *HA* [2008] SC 58 at paragraph 17:

"An immigration judge's decision on credibility or implausibility may, we conclude, disclose an error of law if, on examination of the reasons given for his decision, it appears either that he has failed to take into account the relevant consideration that the plausibility of the asylum seeker's narrative may be affected by its cultural context, or has failed to explain the part played in his decision by consideration of that context, or has based his conclusion on speculation or conjecture."
9. The errors in the judge's decision at the paragraphs criticised may be categorised as absence of reasoning; or as speculation and conjecture; or as placing matters in *Karanakaran* category (4), without an explanation of why they could not possibly have happened. The concessions by the respondent were fairly and correctly made.
10. It is unnecessary to resolve grounds 1 and 2.
11. The decision of the FtT is **set aside**. It stands only as a record of what was said at the hearing.
12. There is a presumption that the UT will proceed to remake decisions. However, parties were in agreement that the nature of this case is such that it is appropriate under

section 12 of the 2002 Act and Practice Statement 7.2 to remit to the FtT for an entirely fresh hearing.

13. The member(s) of the FtT chosen to consider the case are not to include Judge Mozolowski.
14. No anonymity direction has been requested or made.

A handwritten signature in black ink, reading "Hugh Macleman". The signature is written in a cursive style with a large, stylized initial "H" that loops around the first letter of the name.

5 July 2018
Upper Tribunal Judge Macleman