



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: PA/13216/2016

THE IMMIGRATION ACTS

Heard at Glasgow  
On 24 October 2018

Decision & Reasons Promulgated  
On 21 November 2018

Before

UPPER TRIBUNAL JUDGE DAWSON

Between

JB  
(ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Criggie, Advocate instructed by Latta & Co  
For the Respondent: Mr A Mullen, Senior Presenting Officer

DECISION AND REASONS

1. In a decision promulgated 21 August 2018 (which is annexed), I gave my reasons for setting aside the decision of the First-tier Tribunal in part in the appeal by the appellant, a national of Iran, born March 1984, against the Secretary of State's decision dated 18 November 2016 refusing his protection claim. The appellant's claim was based on conversion to Christianity in Iran and flight when the "house church" he had been attending was raided by the authorities.

2. In the United Kingdom he was baptised in Glasgow in the Upper House Church in April 2017 following religious instruction at that church in addition to classes at Tron Church. The First-tier Tribunal had comprehensively disbelieved the appellant as to his Iran and Glasgow based activities. I concluded that the First-tier Tribunal had not erred in relation to her findings on the events in Iran, but I was satisfied there was an error of law in relation to the findings that related to the appellant's conversion in Glasgow. The First-tier Tribunal decision insofar as it related to the Glasgow activities was therefore set aside and I directed that the remaking of the decision would be on the basis that the appellant did not convert as claimed in Iran or that he had left under any cloud of adverse interest. The remaking required an assessment of the appellant's post-arrival activities and, whether on the facts found, these would result in a risk on return.
3. At outset of the hearing Mr Mullen acknowledged by reference to the February 2018 CIPN report, that if the appellant was accepted as a genuine convert, he will be a refugee. That set the scene for the approach at the hearing during which I heard evidence from the appellant and four witnesses. In addition, the appellant relied on written evidence from a fifth. I summarise their evidence as follows.

#### THE APPELLANT

#### 4. *His statement*

- (i) He is from Esfahan where he lived with his parents, two sisters and his brother. He married on 27 July 2015. His wife remains in Iran. His family are Shia Muslim but they do not practise Islam nor had the appellant. His wife has spoken about divorce in the light of their separation.
- (ii) On arrival in Glasgow (in May 2016) he attended the Tron Church for Sunday services and Friday Bible study where he completed the Christianity Explored Course in preparation for baptism. He also attended Upper Room Church where he was baptised on Easter Day 2017 although his first preference had been for baptism at Tron Church. He has attended Upper Room Church exclusively for the last six or seven months where he attends Thursday services and sometimes at the pastor's house on Monday for Bible study. Apart from attending City of Glasgow College where the appellant is studying English, the majority of his time is spent at church or being involved with the church. It is important for him to be allowed to continue to practise his religion freely. The appellant prefers the atmosphere at Upper Room Church which is not as crowded as Tron Church. The appellant contends that Christianity has had a really positive impact on his life hence his passion about encouraging others. He is very vocal about his religion and whenever he sees an Iranian person, he enjoys speaking to them about Christianity and being able to do so without fear. He describes his experience of encountering the witnesses and his encouragement for them to attend Upper Room.
- (iii) The appellant's family are aware of his conversion but have not really come to terms with it.

## 5. *Cross-examination*

Key points that emerged in cross-examination and my questions for clarification as well as re-examination are as follows.

- (i) The appellant considered that religion should be something one chose oneself rather than being chosen for one by birth. He was happy with the path that he had chosen. Of the many things that had changed in his circumstances that led him from not practising any religion to a different religion, these included kindness and forgiveness. The appellant had been quite depressed in Iran and attendance at the House Church had changed him completely. It was not just the people he encountered but also the book he had been studying which had informed him.
- (ii) The appellant contrasted the circumstances of those born Christian in Iran who did not have problems with those who had converted from Islam. He described the hurt of having to be secretive about their faith and being over the moon because of the route he had taken and his ability to speak out and spread the word.
- (iii) At to the suggestion that some people might say he had converted because it was a sure win in an asylum claim, the appellant responded that with all his heart he believed in Christianity and God knows that belief. He spoke of Jesus having said of the company chosen so many reject you. He had given his understanding of Christianity to the court but also to his friends in response to the challenge that he was merely saying what was thought the right things to the Home Office and representatives.
- (iv) Of all the people he had taken to church, totalling four or five, not all were refugees.
- (v) As to why he had been in contact with his wife but not his parents, he was afraid to put them in danger. He had not let his wife know about the conversion but that he had gone to the House Church at night. He accepted that contact with his wife (from the UK) might have been dangerous for her and so he had used WhatsApp with a short message just to let her know that he was okay. He had last spoken to his wife roughly three or four months ago. That was the time she had said that she wanted to separate and wanted a divorce. He confirmed she had known that he had changed his religion and on learning this, she had reminded him of the danger when telling her in Iran.

## 6. *My questions*

- (i) The appellant had told his parents, sisters and brother of his change of religion in Iran. They were not against it. His mother had said that he was an adult and he could choose any way he liked but she was nevertheless anxious. He had been in contact with his mother since arriving in the United Kingdom once or twice through WhatsApp.

- (ii) It was about a month prior to Easter that he had learned of the impossibility of baptism at Easter in the Tron Church. Classes for that baptism had taken three to four months. He had registered for those classes some five months prior to Easter although he could not remember the exact date or month. He had discovered Tron Church three or four days after reaching Glasgow, having been initially detained on arrival in the United Kingdom for five or six days before dispersal.

At the conclusion of my questions Mr Criggie acknowledged that WhatsApp messaging was encrypted which meant that it could not be hacked.

#### 7. *Re-examination*

- (i) The appellant clarified that he was not living with his wife in Iran and referred to the culture there of a period of engagement to prepare for living together and acquiring furniture, etc for this. He confirmed his date of marriage as 27 July 2015 about a year before he left. When his parents became aware that he had converted, his mother was not happy and was worried. This had been about two to two and a half months before he had left Iran. His wife had noted his mood change on his conversion. She had not agreed to his suggestion that she attend classes at the Home Church. His communication with his wife since arriving in the United Kingdom had been exclusively by WhatsApp which he acknowledged was safe from hacking. As to why he had not lived with wife on marriage, he explained the custom in Iran of initial engagement prior to a complete marriage ceremony which could be for a period of one and a half to two years. When pressed by Mr Criggie the appellant explained as to the event on 27 July 2015 whether it was a wedding or something else, the appellant responded it was his engagement.
- (ii) As to the significance of Easter, he described this as a very important date for Christians and his desire to be baptised on such an Eid. He referred to Easter as a celebration when Jesus Christ “woke up” after three days from the dead.
- (iii) Finally, the appellant confirmed that he had been attending Upper Room Church for baptismal classes and he had been going to Tron Church at the same time. On learning that the Tron Church could not baptise him at Easter, Dr White from the Upper Room Church suggested that as he was attending (classes) at Tron Church, he could be baptised in Upper Room.

#### 8. *My observations*

- (i) In part, the appellant showed some confusion when recalling his recent experiences and events in Glasgow. His account has been corroborated by witnesses as described below and I do not consider that this confusion is indicative of any deception as far as UK based events are concerned. Despite it having been made clear that his story of conversion in Iran had been rejected, he persisted in referring to circumstances and events there as part of his path to conversion. His reluctance to let go that narrative might however mean that

this aspect possibly had some truth with regard to his burgeoning interest in Christianity if not the circumstances that led to his plight.

- (ii) Throughout his evidence, the appellant has referred to being married but ultimately accepted, when pressed by Mr Criggie, that he had only been engaged. The appellant however has been consistent that he has not lived with his wife. I do not rule out the possibility that he regarded himself as committed to marry and therefore thought of himself as married in accordance with Iranian tradition. As he has never sought to assert that he and his fiancée lived together the negative pull of his claim to have married is reduced.
- (iii) The suggestion that Jesus Christ awoke after three days following his crucifixion shows a fundamental misunderstanding of the significance of Easter which is concerned with death and resurrection. Nevertheless, as Mr Criggie pointed out in his submissions, the appellant gave the correct answer in his screening interview in October 2016 which was early on in the course to his conversion in the United Kingdom. The detail provided in interview answers demonstrates a good understanding of the basic principles of Christianity and its story. I cannot rule out the possibility that the reference to “awoke” comes from a mistranslation.
- (iv) The appellant has given separate accounts of his mother’s response to the news of his conversion. The differences however are not so great as to undermine his story. Given the appellant’s understanding of the reported and encryption of WhatsApp messaging it is odd that he gave security as a reason for not making more frequent contact. However, I cannot rule out plausible irrationality given the climate of hostility in Iran to those who convert.
- (v) The appellant also demonstrated at the hearing a poor ability to give a clear timeline in relation to his parallel Bible classes at the Upper Room and Tron Churches. Overall his recall of the chronology of matters was weak resulting in the confusion I have referred to above. This may be a pointer to deception but also a weak aspect of his intellect.
- (vi) The accumulation of the above factors has the potential to jeopardise the appellant’s credibility particularly if I were to decide his case on his own evidence in isolation. But that is not the reality. I do not need to be convinced that the appellant has converted to Christianity; that would be an error of approach to the standard of proof. It is for the appellant to show a reasonable degree of likelihood that he has given a credible account. With that in mind together with the appellant’s assurances of his conversion and his evidence of its impact, I turn to the evidence of two witnesses to whom he has introduced the Upper Church.

9. *[F K] and [T N]*

Ms [K] is also an Iranian national and she has been recognised as a refugee by the Secretary of State on account of hostility from the authorities due to her participation as an engagement/wedding planner which involved, on one occasion, gay men. She too was born a Muslim and began attending Upper Room Church in January 2017

soon after she arrived in the United Kingdom. She has completed the Christianity Explored Course at that church. As well as attending a Bible class on Mondays she also holds a women's study group every Tuesday. She now considers herself a Christian. She confirms the appellant's popularity within the church where he is an active member. She confirms that since meeting him he has brought a few other people to that church and has been with him on several occasions where he has spoken to others about his faith and has encouraged them to Christianity. She has now moved away from Glasgow.

10. Under cross-examination Ms [K] explained where they had met (Clyde House), and described how they had fallen into conversation whilst waiting in a lengthy queue with her son. She described the assistance the appellant had provided her with the Bible. She was clear that she had no notion of conversion prior to leaving Iran. In response to my question she explained that she had been recognised as a refugee after her interview on 15 June 2017.
11. Mr [T] is also from Iran and has been in the United Kingdom for some eighteen years where today he is a British citizen and works as a bus driver. He explains in his statement that he met the appellant a year ago through another friend and also how the appellant invited him to church when Mr [T] revealed his unhappiness. He started attending Upper Room Church some four months ago and reports in his statement the improvement in his mood as a consequence.
12. Under cross-examination Mr [T] explained that he had not yet been baptised and referred to the requirement that he should join classes. He had not attended them yet but was nevertheless attending church praying and learning about Christianity. Others suggested he convert to Christianity in the past, but he had not taken this as a very serious matter. He confirmed that the appellant had convinced him to make the journey to conversion explained by his previously depressed state and the understanding the appellant had given him about the church which he attends on Thursday.
13. In response to my questions for clarification he explained he was married with two children and confirmed his wife's Iranian origins. As to the basis of his asylum claim he explained he had problems with the Iranian government. He was not otherwise forthcoming as to the precise nature of the basis of his claim. He confirmed that he had not been back to Iran since his first arrival in the United Kingdom.
14. I find both witnesses to be credible about the way in which the appellant had encouraged them to convert and as to the benefits that had ensued.
15. [A Z]

Mr [Z] was granted refugee status in November 2016. He met the appellant some two years ago according to a statement at the Tron Church which he had been attending for around three years. He had been introduced to the appellant in a Christianity Explored class and they became friends. They used to attend Glasgow City College together. The appellant was very vocal and enthusiastic in the class and

attended it regularly. They have completed the Christianity Explored class. The appellant used to attend Sunday services at the Tron Church and appeared to Mr [Z] to be very committed to the church and his faith. He is aware of the appellant's switch to Upper Room Church which he had previously attended although his loyalty is now to Tron Church. The appellant had introduced him to Upper Room. Mr [Z] was present at the appellant's baptism. He refers also to the enjoyment the appellant obtains from evangelising others and his belief that it is his duty to spread the word of Jesus. The appellant is the only person amongst his friends whom he could really trust and describes him as a very caring and kind person.

16. Under cross-examination Mr [Z] confirmed his faith as a Christian and described what it was about the appellant that marked him out as a Christian too by reference to his enquiries about the religion and having a clear heart. He considers it is his duty to help any Christian that he believes is genuine. When asked whether he considered it is his duty to help and to be kind to members of all faiths, Mr [Z] asked for a further explanation (which was provided). He explained that he believed he should help a person who is genuinely Christian and that was why he was at court.
17. In response to my enquiries, he confirmed that the class he and the appellant had attended led to their baptism and that the basis of his fear of return to Iran was his own conversion; he had arrived here on 21 September 2015. He had been born a Muslim and had converted to Christianity roughly about two months before he had left Iran. Recognition of his refugee status came after an appeal hearing.
18. As with the preceding witnesses, I have no basis for disbelieving Mr [Z] as to his sincerity and assessment of the appellant as well as his recognition of the appellant's evangelism. There is no indication why he was first refused when he applied for asylum or of the matters that led to recognition following his appeal. To an extent Mr [Z]'s contribution to my assessment of the genuineness of the appellant is less than that of the preceding witnesses. In the light of the absence of the above material and furthermore the indication that Mr [Z] is no longer attending Upper Room and consequently is unable to speak as to the appellant's current activities. Those activities are addressed by the next witness.
19. *Dr White*

Dr White explains in his statement that he was born in 1955 and is a US citizen. He is the pastor of Upper Room Church in Glasgow and has been a pastor for 37 years in the United States and the United Kingdom where he divides his time between Upper Room Church and Nazarene Theological College - Glasgow Learning Centre which affiliated to Manchester University. He holds a PhD in Theology from the University of Notre Dame and a Doctor of Ministry from Denver Seminary, USA. He is an ordained member of the clergy receiving a valid licence of ordination from the Christian and Missionary Alliance and Communitas International.

20. He established Upper Room Church with his wife Cindy and Mike Kurtyka with his wife who are lay missionaries. It developed from a small group arising out of a church called the Mosaic Community.
21. As to the appellant's activities, he confirms he started attending in the summer of 2016 and describes him as having been very faithful in doing so since. The appellant is very active within the church and comes to every Thursday gathering. In addition, he joined a class preparing for baptism which Dr White had led on Mondays at his house. The appellant has also been attending Alpha Study Group being an introduction to Jesus Christ and to Christianity in general. He also attends their church movie night once per month which is followed by a discussion. The appellant was baptised on Easter Sunday 2017 for which they used the Parkhead Nazarene Church as Upper Room does not have a baptismal pool. That church has now moved into Re: Hope Church in Parkhead.
22. The appellant often arrives early on Thursdays to help set things up for the service and Dr White could think of a good number of people especially those from the Muslim background that the appellant had introduced and invited to the church. The appellant evangelises towards new people about his faith and Dr White adds that he does not hesitate at all in saying that he has really demonstrated that faith. There is a careful evaluation of people who are growing into their faith based on:
  - (i) Consistency in attending meetings.
  - (ii) Faithfulness in prayer.
  - (iii) Hunger to learn about the Bible.
  - (iv) Authenticity in worship.
  - (v) Evangelism.
23. Dr White describes the appellant as attentive and clearly engaged. He has invited Dr White to pray for others that he is sharing with in terms of evangelism and he can think of few others who evidenced their faith like the appellant.
24. Dr White acknowledges that there are people who claim faith for their own ends, but he simply did not believe this to be so for the appellant for whom he would vouch for in every possible way and could not state that in stronger terms. The vast majority of those who are baptised by the Upper Room Church stay with them for long after and it is not the case that those who were granted refugee status simply go off radar. He believes the church has a good pulse on those whom it baptises who are put through quite a rigorous process attending eight two-hour meetings in a group setting following a grilling by Dr White about their desire to be baptised. A series of baptismal questions need to be confirmed in order for baptism to take place. There are a number of people who the church has decided were not ready to be baptised but that was certainly not the case with the appellant.
25. Under cross-examination, Dr White explained why Upper Room Church service took place on Thursdays; the church has other users on Sundays. He had been aware of



the appellant's attendance at Tron Church previously and had discussed baptism with him at that time. Dr White explained the process for preparation for baptism by reference to a personal interview which he conducts, Bible and baptism classes. He referred to the appellant's excitement at baptism on Easter Day. Mr Mullen explained the evidence was that the appellant had made that election without anyone suggesting it to him. Dr White gave a detailed response explaining that the plan for Easter baptism had not been set in stone. There were others who wanted the wonderful coincidence of baptism on that day; the possibility had been raised in discussion. He did not however know about possible baptism of the appellant at Tron Church. He was aware of a specific Iranian Christian Church in Glasgow but could not comment on Mr Mullen's statement that there were not many conversions there; he did not know.

26. As to the evidence in his statement regarding continued adherence by those who were baptised, Dr White explained that this was understood through his relationships with them. He described the vast majority continued to stay on in the church having received a visa. He confirmed there was one person who had received a visa who then went off radar but also there were those who left Glasgow for work related reasons but did not "go off radar".
27. With reference to his statement that there had been a number of people that the church had decided were not ready to be baptised, Dr White explained that such individuals were advised to continue to participate in church life and were not to be discouraged. He referred to the challenge to the church in this regard that in terms of the drive it could be for reasons of ulterior motives and not in line with their Biblical faith. He acknowledged that sincerity was not easy to gauge being a subjective exercise but, in the light of his years of pastoral work, he had strong trust in his own appraisal.
28. I asked Dr White a number of questions for clarification of aspects of his life and the church. From this it emerged:
  - (i) Upper Room Church is in the evangelical tradition giving the description of the Christian Missionary Alliance and the role of Communitas I have described in my summary of his evidence.
  - (ii) Dr White was tasked with coming here to plant a new church called the Mosaic Community which had been in 2001. As that church grew, his attention was given through the Upper Room Church to a small group of refugees and asylum seekers. His activities were half funded by income raised in the United States and half from his salary at the Theological College.
  - (iii) Dr White is the only ordained cleric at Upper Room, his wife and colleagues being lay missionaries.
  - (iv) Dr White does not speak Farsi having learnt only a few phrases. As to how he managed with a Farsi speaking congregation, he explained he relied on a number of gifted people who assisted with translation. That congregation was approximately 100 to 120 but might be as many as 150. As to how he was able

to keep in touch with so many he replied that it was “relational” and he referred to his follow up. He reiterated that he could confidently say only one had “more or less” departed. That congregation comprised mainly refugees and asylum seekers but also included some students from university, a middle-aged couple and a lady from Liverpool.

- (v) The form of service on Thursdays begins with a prayer group at 5pm attended by ten or twelve people during which others arrive. At 5.30 he meets the translator to go through the sermon for the service at 6.30. This starts with warm up songs led by his wife. She was competent on the piano although they only had an electric keyboard available plus drums and some singers. Special prayers would be led, repeated in Farsi and at the conclusion of the service there would be a meal together at about 8 o'clock. There was a collection box where people could pay towards the cost of the Middle Eastern type food served. At the conclusion of the meal there would be further prayer when usually 50 people stayed.
- (vi) There were three types of classes that took place. For baptism it was on Monday afternoons at his flat over an eight-week period. There was a study group on Wednesday for the Alpha group and the third was a group led by his wife in Bible study for women. The last film that had been shown at the session which led to discussion afterwards was “Finding Neverland”. It had been dubbed into Farsi.
- (vii) He knew and appreciated the Tron Church which had a Sunday morning service and also Farsi service on Sunday afternoon.

29. Mr Criggie (on my encouragement) raised with Dr White the appellant’s response that Jesus Christ had woken upon on the third day after his crucifixion. This led him to give a theological explanation of resurrection being central to the Christian faith. He speculated that there might have been a language difficulty with the phrase used by the appellant but was nevertheless clear that the robust theology of the church was that Christ had died and he had risen from the dead.

## SUBMISSIONS

30. Mr Mullen relied on the refusal letter and argued that past events had shed light on the evidence given by the appellant. It was important to understand why someone had converted and the appellant had failed to give a clear set of reasons. He contended the appellant’s explanation that Christianity had made people happy was glib and shallow. He considered the appellant’s answer astonishing when he asked what was meant when questioned about the reach of his evangelism. He considered there was difficulty with the responses the appellant had given regarding his express plans for baptism in the context of the evidence of Dr White. He acknowledged the possibility of a mistranslation of the evidence of the appellant but nevertheless contended that he did not understand the significance of Easter. There was a clear discrepancy in the appellant’s evidence regarding his marriage, an aspect going to the core of his claim. Little weight in the light of these factors could be placed on the appellant’s testimony. He considered the testimony of the appellant’s supporters to

be superficial. As to Dr White, he had no quarrel with his experience or sincerity but maintained his concerns over the appellant's testimony in this case which turns on his credibility.

31. For his part, Mr Criggie argued the appellant had given a credible account of his conversion and argued I should follow the approach set out by Lord Glennie in *TF and MA v SSHD* [2018] CSIH 58 whose judgment followed a week after my own in finding error of law which identified a similar approach to be taken to the evidence of other witnesses including in this case Dr White. In his submission, Dr White's evidence with the other witnesses buttressed the testimony of the appellant. He did not consider it significant that the appellant had difficulty in recalling the precise chronology in terms of his studies and furthermore, the evidence regarding marriage was not relevant as the appellant had not stated they were living together. He concluded with his endorsement of the quality of the evidence of Dr White.

#### MY FINDINGS AND CONCLUSION

32. I consider that Mr Criggie was correct to identify the force of Dr White's evidence which he gave in an assured authoritative manner when cross-examined and in response to my own questions. I have no doubt as to his sincerity. Furthermore, I consider that he is well aware of the potential for abuse given the targeted congregation by his church with its missionary tradition. Dr White is supported by three lay missionaries and I do think it possible that there is enough manpower to keep an eye on the congregation in particular, the movements of those post-baptism. It is clear to me that the process leading to baptism is reasonably thorough and I received a satisfactory explanation how the language barrier was overcome. The structure of the Thursday evening services demonstrates that it is more than a social gathering which had been of concern to the First-tier Tribunal Judge. The personal involvement in the process of instruction as well as interview leading to baptism persuades me that it is unlikely someone who was not genuine would be able to mislead him in the manner described by Lord Glennie at [60] "... has in effect lived a lie i.e. created a false persona and lived a false lifestyle over a protracted period and has successfully duped the witnesses from the Tron Church into believing that his new faith was genuine when it was not". As acknowledged by Lord Glennie it was not impossible that someone would do this but as he observed "to reach this conclusion there must be some evidence which points to it".
33. I have identified above the negative aspects in the appellant's testimony including this his dishonesty over the events leading up to his flight from Iran. The reach of that lie does entail a need for strong evidence to show on the lower standard that the appellant has nevertheless genuinely converted and has not opportunistically embraced Christianity to achieve refugee status. I do not accept Mr Mullen's submission that the appellant's account of the joy that he feels as a convert glib and shallow; the expression of happiness in such circumstances is commonly heard. His supporting witnesses for the reasons which I have already given add some strength to the appellant's claim. What however persuades me to accept that the appellant has genuinely converted is the testimony of Dr White who conscientiously considers

whether those who convert are genuine in their belief. His belief in the genuineness of the appellant is not a substitute for my own assessment but is nevertheless an important factor.

34. I find that the appellant has demonstrated to a reasonable degree of likelihood a credible account that he has converted to an evangelical denomination as a Christian. A core part of that faith is an evangelical element. In the light of Mr Mullen's acceptance of the position were I to find the appellant credible I am satisfied that he is a refugee and allow this appeal.

#### NOTICE OF DECISION

The 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 20 October 2018

*UTJ Dawson*

Upper Tribunal Judge Dawson

# Annex



IAC-FH-LW-V1

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

Appeal Number: PA/13216/2016

## THE IMMIGRATION ACTS

**Heard at Glasgow  
On 10 August 2018**

**Decision & Reasons Promulgated**

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**Before**

**UPPER TRIBUNAL JUDGE DAWSON**

**Between**

**J B  
(ANONYMITY DIRECTION MADE)**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

### **Representation:**

For the Appellant: Mr Criggie, Advocate instructed by Latta & Co

For the Respondent: Mr A Govan, Senior Presenting Officer

## DECISION AND REASONS

1. This is an appeal by an Iranian national born March 1984 against the decision of First-tier Tribunal Judge Mozolowski who for reasons given in her decision following a hearing on 14 August 2017 dismissed the appellant's appeal against the Secretary of State's decision dated 18 November 2016 refusing his protection claim which was based on a fear of harm in Iran, his country of nationality owing to his conversion to Christianity. The appellant's case is that he left Iran in May 2016 and claimed asylum

in the UK after he was encountered in a hotel in Wetherby on 26 May 2016. After his release from a short detention in Yarl's Wood, he was dispersed to Glasgow where he has been principally active in two churches (Tron and Upper Room).

2. The appellant was substantively interviewed on 26 October 2016. The Secretary of State did not believe his account of conversion in Iran and the troubles he had met as a result that had led to his flight or that he had established that he is a genuine Christian convert.
3. There was no representation by the Secretary of State at the hearing before the First-tier Tribunal when the judge heard evidence from the appellant and from three witnesses, Dr Wesley White (from Upper Room church) and two persons of Iranian origin who have been recognised as refugees. The appellant had introduced them to Upper House church, his current place of worship. The appellant was baptised with one of his lay witnesses in April 2017.
4. The judge rejected the appellant's account of his introduction to Christianity in Iran as not credible. In addition, she rejected as not credible the appellant's account of his escape during a raid by the Iranian authorities on a house church which he had been attending in Esfahan and his subsequent departure from Iran. As to the appellant's church-based activities in Glasgow, the judge did not consider the appellant had shown a genuine or even perceived conversion to Christianity and dismissed the appeal on Refugee Convention, Humanitarian Protection and Human Rights grounds.
5. The following grounds of challenge have been made to that decision. The first is the judge's reasoning was opaque and could be characterised as a flat refusal to accept any of the appellant's evidence in relation to his account of conversion (in Iran) and the judge had relied mainly on speculation.
6. The second ground relates to the appellant's UK activities. It is contended that the judge was vague in her assessment of the evidence provided by the witnesses and no findings had been made as to their credibility and reliability as far as the appellant's commitment to the church was concerned. The third ground relates to the judge's approach to the Administrative Court decision in *SA (Iran)* [2012] EWHC 2575 (Admin).
7. Mr Criggie submitted that the judge had given inadequate reasons for her credibility findings in relation the events in Iran and had allowed her negative assessment of that aspect to inform her as to the credibility of the witnesses relating to the Glasgow activities. No findings had been made on their evidence. He referred me to [24] of *SA* where HHJ Gilbert QC had observed the dangers of:

“... anyone, and perhaps especially a judge, to peer into what some call a man or woman's soul to assess whether a professed faith is genuinely held, and especially not when it was and is agreed that she was and is a frequent participant in church services. It is a type of judicial exercise very popular some centuries ago in some fora, but rather rarely exercised today. I am also uneasy when a judge, even with the knowledge one gains judicially in a city as diverse as

Manchester, is bold enough to seek to reach firm conclusions about a professed conversion, made by a woman raised in another culture, from the version of Islam practised therein, to an evangelical church in Bolton within one strand of Christianity. I am at a loss to understand how that is to be tested by anything other than considering whether she is an active participant in the new church. But I accept that such judicial boldness as this judge showed does not necessarily undermine a decision in law if he does so, and his decision was not successfully appealed. But that is not the only point. There must be a real risk that if she has professed herself to be a Christian, and conducted herself as one, that profession, whether true or not, *may* be taken in Iran as evidence of apostasy. On the basis of the Home Secretary's now stated position, that amounts to a potentially different circumstance from that addressed by the Immigration Judge."

8. Mr Govan argued the judge had taken a logical approach by assessing the Iranian incidents and then the UK activities. She had identified the correct approach in [33] by noting that if the appellant were perceived as a Christian by the authorities his motives for his conversion were not relevant. The findings made as to events in Iran were open to the judge and she had heard evidence from the appellant. Her reasoning was explained over [29] to [32] of her decision. As to matters in Glasgow, the judge had considered all the material in the round and to him the challenge appeared more a rationality challenge.
9. In reply, Mr Criggie questioned the ability of the appellant to "hoodwink" his witnesses over such an extended period. Paragraph [33] of the decision contained a non sequitur where the judge considered the motives for conversion not relevant to risk assessment that they were of "some significance in assessment of the credibility of the appellant".
10. The judge's findings are set out after a detailed record of all the evidence and the appellant's case which included the gist of the evidence of the three witnesses. A summary of the respondent's case is also recorded in clear terms.
11. In my judgment the judge did not err in her finding on the events in Iran based on the ground of challenge. She gave sustainable reasons for questioning the plausibility of the process whereby the appellant became involved in the House Church without an explanation from his introducer, the risks the latter took and the reported contentment by the appellant after his third visit. The appellant had not received any bible study and there was an absence of guidance or teaching. In addition, the judge was entitled to question the appellant's ability to escape whilst having a cigarette outside the House Church during a service when the police raided as well as his father's ability to source funds and make arrangements for the flight from Iran in only 10 days. The findings on this limb to the claim are adequately reasoned in a number of paragraphs and cannot be said to be opaque or characteristic of a flat refusal, as asserted in the grounds, to accept any of the evidence which the judge appears to have considered as a whole.

12. I am less confident as to the absence of error in relation to the findings on the Glasgow based activities. Here the judge begins with a statement of her understanding of a feature of church life in Glasgow. At [34] she explains:

“I note that the witnesses produced before me all indicated that they thought that the Appellant’s conversion to Christianity was genuine. However, given that I do not accept the Appellant had any interest in Christianity whilst in Iran, question marks must arise about why the Appellant took such an interest in attending Church when he came to Glasgow. I also appreciate that there are some churches in Glasgow where there are very committed Christian missionaries with Farsi interpreters on hand who go out to welcome refugees and asylum seekers. As the witness, Miss [K] indicated in her oral evidence, she wanted to find an Iranian community in Glasgow for the purpose of socializing when she made contact with the Appellant and she was happy to attend the Upper Room Church for that reason. I consider that such churches such as the Tron Church and the Upper Room Church provide such a social gathering. Given the isolation that most asylum seekers have to endure, together with the confusion of having to cope with the western culture, different values and possibly the inability to understand English, I find that when asylum seekers are dispersed to Glasgow, it would be quite understandable for them to congregate at Farsi speaking Christian meetings run by such Christian missionaries. Food is sometimes provided, as are outings such as to Edinburgh. There is always social interaction at these meetings. The price that that (sic) would be paid from an asylum seeker’s point of view would be the lectures on Christianity. It does not mean that there is a lasting conversion to Christianity. I asked the Appellant’s witnesses how many Moslem Iranians they knew in Glasgow and the answer was startling. It was only one or two but they knew many Christian Iranians, all attending the same set of churches. The thriving nature of the Iranian social group in these churches is significant in Glasgow.”

13. This passage appears to suggest the possibility that the judge was drawing on her experience of a pattern of similar cases in Glasgow and it is not clear the extent to which the appellant and Dr White were invited to comment. It is also significant that the judge makes no clear findings on his evidence. Her attention was drawn to another passage from SA [24]:

“What appears to have impressed the immigration judge, and then the Home Secretary, is that the Claimant's conversion to Christianity was not regarded by him as genuine, and had been manufactured to assist her asylum claim.”

14. The judge rejected the submission based on this extract for reasons given at [36] of her decision:

“However I must disagree with the submission of the Appellant’s Representative that regular attendance at a Christian church is in fact the only key to assessing a person’s conversion. I consider that there are numerous explanations for regular attendance at a particular Christian church as I have indicated, social interaction being one explanation.

15. Whilst it was open to the judge to reject attendance as the only key, she does not explain what method of assessment she considered appropriate in this case apart



from the presence of doubts in the process of conversion and the pull of her earlier negative credibility findings. These aspects and other matters are considered at [37] to [41]:

- “37. I find that it is noteworthy that the Appellant claimed to have converted so rapidly and to have such complete and absolute certainty in his new faith. I would have thought that there would have been doubts along the way. On asking Dr White whether he would expect someone to have doubts whilst in the process of conversion, Dr White confirmed that he would fully expect that to be the case. There are no signs of any doubts whatsoever with the Appellant and the Appellant insisted that that was in fact the case. Because I find the Appellant’s credibility is poor with regard to his claim to have been a Christian in Iran, I find that this must also be one of the factors in my assessment of the Appellant’s sur place claim.
38. I find that the nature of the Iranian community in Glasgow having a large Christian influence and the significant impact that certain Glasgow churches have in the social gathering in that community, tackling the isolation of asylum seekers and refugees, all indicate to my mind that such churches offer an important social role but not necessarily a spiritual one. The Appellant’s poor credibility also detracts to the sur place argument.
39. It has been argued that the Appellant has been baptized by Dr White of the Upper Room Church in a ceremony in April 2017. I place little reliance on the baptism ceremony as proof of a conversion given that Miss [K], who had only arrived in the United Kingdom in January 2017 was also baptised at the same ceremony. Dr White was clearly satisfied that she too had converted. I consider that a matter of 10 weeks or so for Miss [K] to have been introduced to Christianity would not be sufficient for a genuine conversion and I consider that it undermines the Appellant’s own claim concerning his baptism. I do not consider that a baptism certificate is a badge of honor or graduation certificate which proves a person’s conversion. It simply means a person is willing to go through a particular ceremony and nothing more.
40. Taking all of this into account, I note that all the witnesses for the Appellant speak of the Appellant’s regular attendance at two Glasgow churches and him helping out at such places. I find that it may be indicative but I do not find that fact of itself to be conclusive in the circumstances. I reject the baptism certificate as being even significant in the issue of conversion. In the circumstances I do not consider that the Appellant has shown a genuine or even perceived conversion to Christianity because I find the Appellant’s credibility to be so poor. The Appellant appears to spend a lot of time attending more than one church. However, I consider that the social aspect of attending these particular churches in Glasgow is significant. These are churches with large attendances of Iranian people and would indicate participation in communal activities, rather than demonstrating a spiritual aspect to such participation.
41. There is no indication that the Iranian government has shown any interest in monitoring the activities of any of the Churches in Glasgow and I do not consider it shown that the Iranian authorities are even aware of the

Appellant even being in Glasgow, let alone attending Church there, for whatever motive.”

16. I do not underestimate the difficulties as acknowledged by Mr Govan for a judge in making findings on a claim of this kind particularly where the Secretary of State has not bothered to be represented. It is still necessary to decide the credibility of the evidence of all witnesses, something which is absent from this decision. There is no doubt that Dr White will have had insight into the way people embrace his church and there is no indication that the concerns expressed over the absence of doubt by the appellant were put to him for his reflection. There is no finding over the reliability of his assessment of the strength of the appellant’s conversion. Such an evaluation may or may not be determinative but it is necessary where on a claim of this kind insight is required into matters that go to the very core of someone’s identity. Without answers on these points, the correctness of the judge in giving such prominent weight to the negative reach of earlier deception is not sustainable. An asylum seeker may seek to mislead over one aspect of a claim and be telling the truth in relation to another; this can include conversion to another faith.
17. In my judgment the errors that surface in ground two are material and the decision in so far as it relates to the Glasgow activities cannot be upheld. Accordingly, I set aside the decision restricted to these matters alone. The decision in respect of events in Iran stands. The remaking of the decision will be on the basis that the appellant did not convert as claimed in Iran and that he did not leave under any cloud of adverse interest. The remaking will require an assessment of his post arrival activities and whether on the facts as found he will result in a risk on return.

#### NOTICE OF DECISION

The decision of the FtT is set aside on the limited basis set out above. A remaking of the decision in relation to the appellant’s post arrival activities will take place in the Upper Tribunal on a date to be notified.

Signed

*UTJ Dawson*  
UTJ Dawson