



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: PA/13581/2016

**THE IMMIGRATION ACTS**

Heard at Manchester Piccadilly  
On 26 January 2018

Decision and Reasons Promulgated  
On 01 February 2018

Before

**DEPUTY UPPER TRIBUNAL JUDGE BIRRELL**

Between

**BEHZAD ALAMI**  
(ANONYMITY DIRECTION NOT MADE)

Appellant

and

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr Holmes counsel instructed by GMIAU

For the Respondent: Mr A Mc Vitie Senior Home Office Presenting Officer

**DECISION AND REASONS**

**Introduction**

1. I have considered whether any parties require the protection of an anonymity direction. No anonymity direction was made previously in respect of this Appellant. Having considered all the circumstances and evidence I do not consider it necessary to make an anonymity direction.
2. The Appellant was born on 22 May 1986 and is a national of Iran.

3. In order to avoid confusion, the parties are referred to as they were in the First-tier Tribunal.
4. This is an appeal by the Appellant against the decision of First-tier Tribunal Judge Lambert promulgated on 2 February 2017 which dismissed the Appellant's appeal against the decision of the Respondent dated 1 December 2016 to refuse the Appellants protection claim based on his alleged conversion to Christianity which was not accepted by the Respondent to be genuine.

#### The Judge's Decision

5. The Appellant appealed to the First-tier Tribunal. First-tier Tribunal Judge Lambert ("the Judge") dismissed the appeal against the Respondent's decision finding that :
  - (a) The Appellants previous immigration history with adverse credibility findings made by two previous Judges 'inevitably' had a knock on effect on considerations of credibility in the current appeal.
  - (b) She accepted that there was evidence of regular Church attendance since February 2015.
  - (c) The Appellants failure to refer to his claimed conversion when he made further submissions on 18 June 2015 and his explanation for that failure were rejected by the Judge.
  - (d) The Appellants stated reasons for his conversion were vague. There was no evidence of 'soul searching' or 'seeking guidance' in relation to his decision to convert.
  - (e) She accepted that there were right and wrong answers to faith based questions and that these were not determinative.
  - (f) She accepted that the Reverend Woollaston s evidence was 'genuinely and honestly' given. However she noted that the Reverend who formed an opinion as to the genuine nature of the Appellants conversion had not provided a statement and his interaction with Reverend Woollaston before baptism was very brief and that he did not receive baptismal lessons. Reverend Woollaston's evidence failed to indicate on what basis she may have exercised any discernment in this particular case. She concluded that although genuinely given the evidence was not determinative.
  - (g) She concluded that the Appellant was not a genuine convert to Christianity.

- (h) The Appellant would return as a failed asylum seeker who made a false claim to have converted to Christianity but remained a Muslim and would not be at risk on return.
6. Grounds of appeal were lodged arguing: that the Judge erred in her assessment of the previous appeal determinations; failed to apply the Dorodian guidelines; her assessment of Reverend Woollaston's evidence was flawed and failed to take account of evidence in favour of the Appellant.
  7. On 31 May 2017 First-tier Tribunal Judge Parkes refused permission to appeal. The grounds were renewed with an additional ground that the Judge erred in her assessment of the submission that it was Church membership rather than mere belief that would put the Appellant at risk on return.
  8. At the hearing I heard submissions from Mr Holmes on behalf of the Appellant that :
  9. Ground 2 took issue with the Judges basis for rejecting the Appellants conversion at paragraph 6.6: the finding that the majority of Muslims did not convert as a result of the activities of ISIS was an irrelevant consideration as it was the Appellants decision that was in issue. By its nature a decision in relation to religious beliefs was a personal one and it was wrong to look for rationality. The Judge imposes a requirement of soul searching as a pre requisite for conversion but in fact in the Respondents bundle at B page 2 paragraph 10 the Appellant describes having long conversations with Muslim friends about faith.
  10. The Dorodian witness was not dealt with properly and assessed against the background material that Church attendance was illegal. The Reverends evidence was that she had spoken at length with the previous pastor and that the Appellant had been attending Church for two years. The previous pastor was ill and unable to carry out the baptism and Reverend Woollaston stepped in. The concern was that the Judge was importing those considerations set out in paragraph 6.6 to her assessment of the Reverends evidence.
  11. In relation to the final ground paragraph 6.13 did not go far enough. The Appellant had attended Church for 2 years and been baptised. Would those facts of themselves be enough to treat him as an apostate and would the Iranian authorities take at face value his assertion that he was 'just pretending' about his

conversion. He would be treated with suspicion and be detained in circumstances that breached Article 3.

12. On behalf of the Respondent Mr Mc Vitie submitted that :

13. The Appellants previous history is relevant to his claim in that he had previously been found not to have been a witness of truth.

14. The Judge found that it was also relevant that the Appellant had previously failed to make reference to his claimed conversion when he made further submissions.

15. The Judge was entitled to approach the Appellants claim from the starting point that he came from a theocracy and that the reasons he gave for his conversion were vague. The Judge was entitled to note that the fact that ISIS killed other Muslims did not result in many Muslims changing their religion.

16. In relation to the Dorodian witness all she could do is give her opinion that the Appellant had been truthful. The Judge was entitled to take into account that the Reverend knew nothing about the Appellants background and believes unchallengingly those who approach them about conversion. A Dorodian witness is not determinative of an appeal.

17. In relation to the final ground the Appellant was simply a failed asylum seeker and was not at risk on return. The Appellant in SSH was a returning Kurd in relation to whom the Iranian authorities are hyper vigilant. There was no evidence to support the claim that if the Appellant stated that he had lied about his conversion to Christianity he would be of interest to the Iranian authorities. He was simply a failed asylum seeker and SSH did not suggest that there was a risk for those failed asylum seekers whose claimed conversion was rejected.

18. In reply Mr Holmes on behalf of the Appellant submitted:

19. The decision must be read as a whole and paragraph 6.6 is of significance. The Judge used a comparator that was not open to her. There was no evidence that Islam was at the core of the Appellants being as he had never suggested he was a devout Muslim.

20. In relation to Ground 4 either Iran was a dangerous theocracy or it was not. If the authorities had concerns about the Appellant he would be detained and a risk would arise as the Appellant has a record of unchallenged attendance at Church and has been baptised.

### **Finding on Material Error**

21. Having heard those submissions I reached the conclusion that the Tribunal made no material errors of law.

22. In relation to Ground 1 that the Judge was in error in her approach to the previous decisions in this case I find no error of law. The judge properly directed herself in accordance with the law, and summarised the issues at paragraph 5.1 that his current claim had to be assessed against his previous immigration history. She was therefore applying as her starting point the previous decisions of the immigration judges that were part of her bundle applying the well-established principles of Devaseelan (2002) UKIAT 00702. It was undisputed that the Appellant's history included an unsuccessful asylum claim on political grounds which was dismissed in 2010 and a further unsuccessful asylum appeal dismissed in 2011 in the First-tier and Upper Tribunal. The Judge was therefore entitled to find that in these repeated applications he was shown to have been someone *'prepared to put forward evidence that is not true in order to further a desire to remain in the UK.'* She does not suggest that this was determinative of the present appeal but it was clearly a factor that she was entitled to take into account in her overall assessment of the credibility of the Appellants current claim.

23. In relation to Grounds 2 and 3 that the Judges approach to Dorodian and the evidence of the witness Reverend Woollaston was flawed I find no error. The Judge no doubt reminded herself that Dorodian is a decision of the Immigration Appeal Tribunal from 2001. It is available for reference, but is not an authority the FtT or the UT is bound to follow. It says that no-one should be regarded as a committed Christian unless vouched for by a minister of a church. It does not say that an Appellant vouched for by a minister should be found to be genuine. That always remains a question for the judge to answer on all the evidence.

24. The Judge was therefore entitled to look at the evidence of Reverend Woollaston in the round with all of the other evidence before her. Thus she took into account as indicated above the Appellants immigration history. She took into account the fact that when the Appellant made further submissions in 2015, at a time when he claims to have been a committed Christian albeit not baptised, he made no reference to his alleged conversion and she examines this and his explanation for this failure in detail at paragraph 6.5 .
25. The Judge was also entitled to consider the explanation and motivation the Appellant chose to give for why he, as a person brought up in Iran as a Muslim, made such a momentous decision to convert at paragraph 6.6. She properly recognised that conversion was a personal matter but given that his explanation was that ISIS killing other Muslims was nothing new in early 2015 when he started attending Church it was open to her to find this was an unsatisfactory explanation. She also noted that the behaviour of ISIS did not prevent the overwhelming majority of Muslims from pursuing their faith and that there was no evidence of what she described as ‘ soul searching or seeking guidance’ but these were comments that reflected the overall finding that his account of his own journey to the Christian faith was not clearly explained. They were also not determinative of the Judges finding that she did not accept that the Appellant was a genuine Christian but part of the overall assessment.
26. In relation to the Judges approach to the evidence of Reverend Woollaston the Judge was not required to find that her evidence was determinative of the appeal :that is not what Dorodian says. The Judge makes clear (6.4 and 6.9) that she accepted the evidence given that the Appellant had regularly attended the Church since February 2015. Nevertheless the Judge gave a number of reasons why she found that although the Reverend was honest and genuine in the views she expressed these were not views that the Judge found outweighed her other concerns about the Appellants claimed conversion. She therefore found that Reverend Woollaston was not the Pastor who made the decision that the Appellant was ready to be baptised as this Pastor (Reverend Parodi) was too ill to perform the baptism but there was no evidence from him in any form and he did not of course attend the hearing. She noted that having heard evidence from the Reverend that the Reverend had little or no context in which to assess the

genuine nature of the Appellants conversion: thus it was open to her to note that she had never baptised an adult, had no other Iranians in her congregation, knew very little about his immigration history and she found that it was understandable that the Reverend thought it 'inconsistent to approach people with an attitude of distrust.' None of these factors are decisive in the Judges assessment but she is required to assess what weight she can attach to the Reverends assessment of the genuine nature of the Appellants conversion and it is reasonable for her to find that evidence of the Reverends that these matters potentially impacted on the Reverends ability to make such a judgement about the Appellant.

27. In relation to the final Ground I find no weight in that. The Judge addresses this in paragraph 6.13 on the basis that the Appellant would present on the airport as a failed asylum seeker of no previous interest to the Iranian authorities who had manufactured a number of false claims while in the UK including a false claim about being a Christian and this would not put him at risk. No evidence was produced before the Judge to suggest that mounting a false claim based on religious conversion would result in ill treatment and paragraph 23 of SSH and HR (illegal exit: failed asylum seeker) Iran CG [2016] UKUT 00308 (IAC), relied on by Mr Holmes, does not support this argument. In both SSH the Tribunal heard evidence to the effect that the Iranian authorities are aware that economic migrants make false asylum claims in Europe, in this Appellants case should he choose to tell the authorities this claim was part of a history of advancing claims that were rejected by UK authorities as false.

*"We can understand the sensitivity that the Iranian authorities may have towards perceive slights against their own state in the form of untruthful allegations about the conduct of the state, but equally one can expect a degree of reality on their part in relation to people who, in the interests of advancing their economic circumstances, would make up a story in order to secure economic betterment in a wealthier country."*

28. The evidence before the Judge did not justify departure from that position and its application in the context of a person who disingenuously converts to Christianity and confesses, in effect, that he 'went through the motions' of baptism in order to remain in the UK.

29. I was therefore satisfied that the Judge's determination when read as a whole set out findings that were sustainable and sufficiently detailed and based on cogent reasoning.

## **CONCLUSION**

30. I therefore found that no errors of law have been established and that the Judge's determination should stand.

## **DECISION**

31. **The appeal is dismissed.**

Signed

Date 30 January 2018

Deputy Upper Tribunal Judge Birrell