



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

Appeal Number: PA/13628/2016

THE IMMIGRATION ACTS

Heard at Liverpool

On 30th January 2018

**Decision & Reasons
Promulgated**

On 26th February 2018

Before

DEPUTY UPPER TRIBUNAL JUDGE M A HALL

Between

**MB
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Miss N Wilkins of Counsel instructed by Broudie Jackson & Canter Solicitors

For the Respondent: Mr C Bates, Senior Home Office Presenting Officer

DECISION AND REASONS

Introduction and Background

1. The Appellant appeals against a decision of Judge A J Parker (the judge) of the First-tier Tribunal (the FtT) promulgated on 10th February 2017.
2. The Appellant is an Iranian citizen born in September 1975. She arrived in the UK illegally on 27th May 2016 and claimed asylum on the basis of her conversion to Christianity.

3. The application was refused on 22nd November 2016 and the appeal was heard by the FtT on 26th January 2017.
4. The FtT heard evidence from the Appellant and Roy Teague, an assistant church leader, and concluded that the Appellant was not a Christian, as she had not undergone a genuine conversion. The FtT found that the Appellant would be returned to Iran as a Muslim who has not converted to Christianity. The asylum and human rights appeal was dismissed.
5. The Appellant applied for permission to appeal to the Upper Tribunal. Permission to appeal was refused by Judge Froom. Renewed grounds were then submitted seeking permission to appeal. The Appellant relied upon four grounds which are summarised below.
6. Ground 1 contends that the judge committed a misdirection in law with respect to the necessity and nature of a Dorodian witness. It was contended that Dorodian [2002] UKIAT 02650 is not a starred decision and does not bind the Tribunal. It was contended that the judge erred in law in concluding at paragraph 24 that the Appellant's case was "significantly weakened" simply by the absence of a church minister at the hearing, especially when there was other evidence such as a baptism certificate, photographs of her attending church, and oral evidence from the assistant leader of the church.
7. It was also contended that the judge had erred by finding at paragraph 44 that the minister, Dr Iain Wight, would not attend in future even though it was explained that he had booked the wrong date in his diary and was otherwise committed on the date of the hearing.
8. It was also contended that the judge had erred in law at paragraph 26 in finding that Mr Teague did not say in his letter that he believed the Appellant was a genuine convert, as although those words were not actually contained within the letter, the meaning of the letter was that the Appellant was a genuine convert. It was contended it was procedurally unfair of the judge to criticise Mr Teague for not confirming in oral evidence that the Appellant was a genuine convert when it appears that he was not asked this.
9. Ground 2 contends the judge erred by placing weight on immaterial matters. It was contended that the judge at paragraph 29 criticises Mehrdad Sadooghi, the minister who baptised the Appellant, for failing to explain why the Appellant was baptised after only two months' attendance at church. It is common knowledge that many Christian churches baptise very young babies. The judge erred by placing "less weight on his written letter because of this"
10. It is also contended that the judge erred when finding at paragraph 38 that the Appellant's alleged lack of knowledge of Christianity was "not successfully dealt with at the hearing. There is very little testing of her faith at the hearing". Lack of testing at the hearing is immaterial because

representatives are not permitted to embark on religious quizzes during examination-in-chief and the judge could not effectively find that there had been a lack of testing at the hearing if the Respondent had chosen not to ask such questions in cross-examination.

11. Ground 3 contends the judge erred in law by relying on supplementary questions asked at the screening interview. It was contended this is unfair and reliance was placed upon YL China [2004] UKIAT 00145. It was contended that the interviewing officer at the screening interview asked inappropriate questions about the Appellant's knowledge of Christianity, and in any event there was an issue with the interpreter at the screening interview. It was contended that it was unfair for the judge to rely upon the Appellant's alleged lack of knowledge of the meaning of Easter and whether she had a Bible or not.
12. Ground 4 contends that the judge erred by failing to take into account relevant evidence, by failing to refer or make any findings as to the detailed account that the Appellant gave about her conversion to Christianity in her asylum interview and witness statement. At paragraph 34 the judge found that two questions (questions 28 and 39) of the asylum interview demonstrated poor knowledge of Christianity, when in fact these questions did not relate to Christianity and left the impression that the judge had not in fact read the Appellant's asylum interview. The judge failed to take into account that the Appellant answered some questions about Christianity correctly.
13. Deputy Upper Tribunal Judge Davey found the above grounds to be arguable and granted permission to appeal.
14. Following the grant of permission the Respondent lodged a response pursuant to rule 24 of The Tribunal Procedure (Upper Tribunal) Rules 2008. In summary it was contended that the judge had directed himself appropriately and had given adequate reasons for his findings in relation to the evidence of Mr Teague. The judge also considered the non-attendance of the minister who had baptised the Appellant, and the minister of the church currently attended by the Appellant and was therefore entitled to attach little weight to their written evidence.
15. Directions were issued that there should be a hearing before the Upper Tribunal to ascertain whether the judge had erred in law such that the decision should be set aside.

Submissions

16. Lengthy oral submissions were made by both representatives and are recorded in full in my Record of Proceedings and summarised briefly below.
17. Miss Wilkins relied upon the grounds contained within the application for permission to appeal. It was argued that two ministers had provided

letters, and the judge was wrong in law to place no weight upon them. It was argued that the judge was wrong to find that Mr Teague did not, in effect, give evidence to say that the Appellant was a genuine Christian convert. The judge did not take into account Mr Teague's evidence of the Appellant's regular attendance at church.

18. With reference to the second ground, Miss Wilkins pointed out that some babies are baptised at birth, and there is no time limit before an individual can be baptised. The Appellant had pursued Christianity in Iran. It would not be appropriate to attempt to test faith at a hearing. It was unfair of the judge to find against the Appellant, because the Respondent at the hearing chose not to ask her questions which tested her faith. The Appellant had explained in her witness statement why she had converted, and this was not considered by the judge.
19. With reference to Ground 3, the Appellant's solicitors had written to the Respondent following the screening interview pointing out that there had been difficulties with the interpreter.
20. With reference to Ground 4, it was contended that the judge had erred by not properly considering the asylum interview, which was evident by the fact that he referred to questions 28 and 29 as demonstrating poor knowledge of Christianity, when those questions were not related to Christianity at all.
21. Overall, Miss Wilkins submitted that the judge had made mistakes of fact and law, and failed to engage with what the Appellant had said in interview and in her witness statement.
22. Mr Bates in making oral submissions relied upon the rule 24 response and pointed out that prior to the hearing the Tribunal had given directions that the parties should familiarise themselves with the guidance in Dorodian. It was submitted that the judge was entitled to note the absence of two ministers, and that there had been no application for an adjournment to allow the ministers to attend.
23. It was submitted that the judge was entitled to find that the Appellant's lack of knowledge of the death of Christ at Easter and his resurrection was a fundamental part of the Christian faith. Mr Bates pointed out that at question 162 of the asylum interview the Appellant was asked why on her arrival in the UK she could not answer why Christians celebrate Easter and she did not say she did not understand the interpreter. Her explanation for not answering the question was that she was not feeling very well and was kept away from her son and she was not prepared to give any answers.
24. Mr Bates submitted that the judge at paragraph 24 was perfectly entitled to find that the Appellant's case was weakened by the absence of the ministers and to note the lack of any application for an adjournment. With reference to baptism Mr Bates submitted that the judge was entitled to

take into account that the Appellant had been baptised two months after joining the church.

25. With reference to testing the Appellant's faith at the hearing, Mr Bates submitted that it was open to the Appellant's representative to ask questions of her to demonstrate her genuine belief in Christianity.
26. In response Miss Wilkins submitted that the fact that a minister of the church had not attended did not mean that the Appellant could not be a genuine convert to Christianity. It was contended that in the solicitors' letter sent after the screening interview, the Appellant had explained that the interpreter had not said the word Easter in Farsi and therefore the Appellant did not know what was being asked of her.
27. Miss Wilkins submitted that if questions were asked of the Appellant to demonstrate her faith this would be regarded as being pre-prepared, and the Presenting Officer at the hearing would not be in a position to verify the answers.
28. At the conclusion of oral submissions I reserved my decision. I will address the grounds in the order in which they are made in the application for permission to appeal.

Ground 1

29. I do not find this ground discloses a misdirection of law. The judge was entitled to find that the Appellant's case was significantly weakened by the failure to attend the hearing, of the minister who baptised her, and the minister of the church that she currently attended. The judge did not misapply or misunderstand Dorodian. The judge did not say that non-attendance of the ministers was fatal to the case. He said that the case was significantly weakened by their absence and he did not err in law in making that finding.
30. The judge was entitled to note that the Appellant was legally represented, and did not seek an adjournment in order for one or both of the ministers to attend. The parties had been put on notice by Tribunal directions dated 18th January 2017, that they should be familiar with Dorodian and SJ Iran [2003] UKIAT 00158.
31. With reference to the evidence of Mr Teague, it is clear that the judge considered that evidence, both oral and written, and in my view gave adequate reasons for concluding, taking all the evidence in the round, that Mr Teague's evidence did not prove that the Appellant was a genuine convert. The judge gave adequate reasons, and in particular noted that Mr Teague had only known the Appellant for a short period of time.

Ground 2

32. In my view the judge at paragraph 29 does not criticise Mehrdad Sadooghi for lack of explanation as to why the Appellant was baptised after only two

months' attendance at church. The judge at paragraph 29 states that "We have an explanation why after two months' attendance at church (he) baptised the Appellant". The judge is correct to find there is an explanation contained within a letter, but is entitled to point out that the reason for baptism has not been tested in cross-examination, and less weight is placed on the written letter because of the minister's non-attendance. In my view it is not an error of law to place less weight on a letter, than may be placed on oral evidence which is tested in cross-examination.

33. With reference to the criticism of the judge as to his finding that the Appellant's alleged lack of knowledge of Christianity was "not successfully dealt with at the hearing", I do not find the criticism to be well-founded. My reading of paragraph 38 is that the judge found that the lack of knowledge displayed by the Appellant in interview had not been successfully explained at the hearing. That, in my view, is not an error of law.

Ground 3

34. I do not find that the judge was unfair, in the circumstances, in making reference to the screening interview, and the Appellant's lack of knowledge or understanding of Easter. It is correct that the Appellant's solicitors wrote to the Respondent following the screening interview, but as pointed out by Mr Bates, the Appellant was given an opportunity to comment upon this in her asylum interview at question 162. The reply in the asylum interview, in summary, was that the interpreter talked about the Easter celebration and "I really didn't know what Easter was about and I mentioned it to my lawyer that I didn't know the answer, I wasn't feeling very well on that day, I was kept away from my son". The Appellant explained that she was not prepared to give any answers and had mentioned to the interpreter that she was not feeling well.
35. The Respondent relied upon YL China [2004] UKIAT 00145 and AD (Sri Lanka) [2007] EWCA Civ 1384 in the refusal letter at paragraphs 32 and 33 contending that the case law proved that asylum seekers are expected to tell the truth and answers given in screening interviews can be compared fairly with answers given later. The Appellant relies upon YL China as authority to confirm that it would not normally be appropriate for supplementary questions to be asked. Caution must be exercised when considering answers given in a screening interview, it must be considered whether the Appellant had the benefit of an interpreter, whether there were any difficulties, and, for example, whether the Appellant was tired after a long journey. The judge took into account at paragraph 33 that the Appellant claimed to be in good health at her screening interview but in her witness statement claimed that there were problems with the interpreter and that she was not feeling well. The judge also took into account at paragraph 31 the letter from her solicitors dated 8th September 2016 and specifically considered her explanation, finding her "attempts to blame the interpreter carried little weight. I do not accept this

explanation". In my view, taking into account the reply given by the Appellant to question 162 of the asylum interview, the judge was entitled to place weight upon the Appellant's lack of knowledge of the death of Christ at Easter and resurrection.

Ground 4

36. The judge errs at paragraph 34 in recording that the Appellant's answers to questions 28 and 39 in her asylum interview demonstrate poor knowledge of Christianity. Those questions do not relate to Christianity. It may be that the judge meant to refer to paragraphs 28-39 of the reasons for refusal letter, as he did at paragraph 31 of his decision. These paragraphs of the refusal letter deal with the Appellant's screening and asylum interviews, and contain comments by the Respondent on the Appellant's alleged lack of knowledge of Christianity. Although the judge erred in referring to questions 28 and 39, I do not find, taking all matters into consideration, that this error is material. I do not find that the judge has failed to take into account relevant evidence. In my view, a reading of the decision confirms that the judge considered all the evidence, analysed that evidence, and gave sustainable reasons for conclusions reached. In my view, the grounds display a significant disagreement with the conclusions reached by the judge, but do not demonstrate a material error of law.

Notice of Decision

The decision of the FtT does not disclose a material error of law such that the decision must be set aside. I do not set aside the decision. The appeal is dismissed.

Anonymity

I make an anonymity direction because the Appellant has made a claim for international protection. Unless and until a Tribunal or court directs otherwise, the Appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify the Appellant or any member of her 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. This direction is made pursuant to rule 14 of The Tribunal Procedure (Upper Tribunal) Rules 2008.

Signed

Date

5th February 2018

Deputy Upper Tribunal Judge M A Hall

TO THE RESPONDENT

FEE AWARD

The appeal is dismissed. There is no fee award.

Signed

Date

5th February 2018

Deputy Upper Tribunal Judge M A Hall