



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

Appeal Number: PA/01349/2019

THE IMMIGRATION ACTS

Heard at Bradford

On 10 September 2019

**Decision & Reasons
Promulgated**

On 19 November 2019

Before

UPPER TRIBUNAL JUDGE LANE

Between

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(ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Sills, instructed by Bankfield Heath, solicitors
For the Respondent: Mr Diwnycz, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant was born in 1987 and is a male citizen of Iran. He entered the United Kingdom in March 2009 and claimed asylum. His claim was refused and his subsequent appeal dismissed. He made further submissions in 2013 which were refused. An application for settlement made on 8 January 2018 was also refused by the Secretary of State. The appellant then made further submissions on the basis of his claimed conversion to Christianity. The respondent, in a decision made on 1 January 2019, refused the appellant's application. He appealed to the First-tier Tribunal which, in a decision promulgated on 1 April 2019, dismissed the appeal. The appellant now appeals, with permission, to the Upper Tribunal.
2. I find that the decision of the First-tier Tribunal should be set aside. My reasons for reaching a decision are as follows.
3. The appellant claims to attend a Christian organisation called the First Love Church. He claims to have been baptised by this church in June 2018. In short, the judge did not believe him. However, I find that her reasons for rejecting the appellant's claim are flawed in law. At [33], the judge found that the appellant had 'started attending a church and gone through ceremony of baptism' but in the same paragraph she found that the First Love Church is not 'recognised church with a recognised system for appointing ministers.' The judge stated that she would, 'expect to see evidence from a recognised minister of religion who had spoken to the appellant on a one-to-one basis and he was alive to the possibility that some appellants are not genuine. I would expect the evidence from the Minister about the appellant's participation in classes, his enthusiasm and openness about his faith the type of questions he asks about his religion.... in genuine cases I would expect the church to keep records about church attendance in the classes which the appellant taken.'
4. The judge does not explain what she means by the expression 'recognised church' as understood in the United Kingdom. The respondent, in the refusal letter, whilst accepting that the appellant had been baptised, characterised the First Love Church as a 'student association' and thereafter referred to the First Love Church as a church only with the addition of inverted commas. However, the refusal letter at least identified that the central issue in this claim is less the nature of the church or Christian community he frequents but whether or not he is himself a genuine convert to Christianity ('there is also no sufficient evidence from the 'church' to support your claim that you are a genuine Christian'). The judge, on the other hand, appears to have become overconcerned with the 'recognition' of First Love Church as a church, without at any point referring to laws or regulations which she considered might confer such recognition and without explaining why attendance at a recognised church might indicate that the appellant was a genuine Christian convert whilst attendance at an informal gathering of Christians might not. Moreover, it was for the judge to analyse the evidence which was before her rather than to criticise the appellant for failing to rely on evidence which she

considered he should have produced or which she believes is usually produced in similar appeals.

5. In the light of what I say above, I find that the judge's analysis is flawed. The decision is set aside. There will need to be a new fact-finding exercise, the existing findings of fact being set aside in their entirety. Consequently, the appeal is returned to the First-tier Tribunal for that Tribunal to remake the decision at all following a hearing *de novo*.

Notice of Decision

The decision of the First-tier Tribunal is set aside. None of the findings of fact shall stand. The appeal is returned to the First-tier Tribunal for that Tribunal to remake the decision at or following a hearing *de novo*.

Signed

Date 30 October 2019

Upper Tribunal Judge Lane

Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008

Unless and until a Tribunal or court directs otherwise, the appellants are granted anonymity. No report of these proceedings shall directly or indirectly identify them or any member of their family. This direction applies both to the appellants and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.