



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

Appeal Number: PA/01986/2018

**THE IMMIGRATION ACTS**

**Heard at Manchester CJC  
On 7<sup>th</sup> January 2019**

**Decision & Reasons  
Promulgated  
On 14<sup>th</sup> February 2019**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE JUSS**

**Between**

**MANSOUREH [E]  
(ANONYMITY DIRECTION NOT MADE)**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: Mr K Behbani (Solicitor)

For the Respondent: Mr A Tan (Senior HOPO)

**DECISION AND REASONS**

1. This is an appeal against a determination of First-tier Tribunal Judge Alis, promulgated on 20<sup>th</sup> August 2018, following a hearing of that date in Manchester. In the determination, the judge dismissed the appeal of the Appellant, whereupon the Appellant subsequently applied for, and was granted, permission to appeal to the Upper Tribunal, and thus the matter comes before me.

## **The Appellant**

2. The Appellant is a national of Iran, is a female, and was born on 1<sup>st</sup> September 1970. She appealed against the decision of the Respondent dated 29<sup>th</sup> January 2018, refusing her claim to asylum and humanitarian protection pursuant to paragraph 339C of HC 395.

## **The Appellant's Claim**

3. The essence of the Appellant's claim is that she is a Christian convert from Islam, having been baptised on 27<sup>th</sup> September 2015, and could point to a certificate of baptism, both for herself and for her son. She was now a regular attender at the Church of Nazarene, which is an evangelical church in Oldham (see paragraph 21 of the determination). Her claim is that she had originally discovered Christianity in 2000 when she had been living in Iran and she had come to this country on the pretext of medical treatment for her son, but had claimed asylum at the same time. That application had been refused in 2002. She still retains an interest in the church. She then returned back to Iran. She was placed in prison for a short period in Iran. Her husband then arranged for a member of the clergy to visit her. She and her husband then separated and eventually divorced. She left Iran again because she received a telephone call from one of her friends who informed her that the authorities had raided the house church that they were attending and arrested everyone. After she arrived in the United Kingdom she joined a church and both she and her son were baptised on 27<sup>th</sup> September 2015.
4. The particular difficulty for the Appellant in her claim, however, was the fact that she had then stopped attending regularly at the church. Her claim was that she was unwell. She states that she continued to go around once a month to the church. It was only after she received a refusal decision at the end of January 2018, when she was shocked that she contacted Reverend Robinson, who had then come to visit her. He discussed the situation with her and she explained the reason that she had disengaged with the church was because she was unwell. She was now attending services on a weekly basis and her son occasionally accompanied her (paragraph 27).

## **The Judge's Finding**

5. The judge observed that Reverend Robinson had actually written to the Home Office on 23<sup>rd</sup> October 2017 advising them that the Appellant had disengaged from the church for the best part of 2017. However, his evidence before the Tribunal was that despite sending that letter he was satisfied that the Appellant remained a committed Christian and that her disengagement was due to her suffering post-traumatic stress disorder and depression. The judge had regard to other evidence from witnesses (see paragraphs 35 to 37).

## **The Judge's Decision**

6. A particular feature of this appeal was that there had been a previous decision by Judge Page in October 2002. On that occasion also, the claim to Christian conversion had been rejected. However, Judge Alis on this occasion observed that applying the principles of **Devaseelan**, he was able to depart from that earlier decision because of the passage of some sixteen years since that first decision, and the fact that there was more evidence in relation to this particular claim (see paragraph 50).
7. The judge went on to reject the Appellant's claim on this occasion as well. The reason was that, as the judge explained the Appellant had not been found to be a witness of credibility in 2002 by Judge Page. The Appellant had remained in the United Kingdom for a period of almost seven years. There was no evidence adduced that she continued her religious beliefs or attended church. If she was a genuine Christian in 2002, as she claimed, then it was not clear to Judge Alis, why she did not continue attending the church up until that time that she voluntarily returned to Iran (paragraph 71). Second, even after returning back to the United Kingdom, and making a claim for asylum once here, the Appellant stopped engaging or attending church (from around September 2015), and "there is also notice that she may only have attended church up to six times in the whole of 2017 or that she only contacted Reverend Robinson after she had been refused asylum at the end of January 2018" (paragraph 17(5)).
8. The appeal was dismissed.

## **Grounds of Application**

9. The grounds of application state that Judge Alis had erred by failing to make findings on core aspects of the Appellant's claim. That he had erred by failing to ask the Appellant to give evidence on issues of concern to him. That the judge had erred in failing to make findings in relation to two witnesses. Moreover, the judge failed to make findings in relation to the medical evidence. The judge had also properly not considered the risks to the Appellant on return to Iran.
10. On 27<sup>th</sup> September 2018 permission to appeal was granted by the Tribunal. It was noted that most of the grounds amount to little more than "mere disagreement". However, there was a question of whether it was open to Judge Alis to find that the Appellant was not a genuine Christian convert, because the judge rejected the testimony of a church minister, who had good knowledge of the Appellant, and who was able to give independent evidence regarding her conversion and reasons for not attending church. If this was so, then it may be that the strictures of the Court of Session in **TF and MA v SSHD [2018] Scot CSIH 58**, had not been abided by.
11. On 14<sup>th</sup> November 2018 a Rule 24 response was submitted by the Secretary of State. This made the following points. First, the judge took

account of the reasons for the Appellant's non-attendance at the church and rejected them. Second, the judge made allowance for the fact that the Appellant may be a vulnerable witness. The Appellant was asked a limited number of questions by the Appellant's representatives and by the judge. Since there was no Presenting Officer at the hearing, the Appellant was not cross-examined at all. Third, the judge did deal with the question of what happened in Iran between 2007 and 2015 and rejected the Appellant's claim as a result of inconsistencies. Finally, the judge gave weight to the evidence of Reverend Robinson who attended the hearing, but the judge had to consider the overall claim in the round, and gave clear reasons for finding the Appellant was not a genuine convert to Christianity. These findings were all open to the judge.

### **Submissions**

12. At the hearing before me on 7<sup>th</sup> January 2018, Mr Behbani, appearing on behalf of the Appellant, relied upon the grounds of application. He submitted that, as far as the decision in **TF and MA [2018] Scot CSIH 58**, was concerned, he would draw attention to paragraphs 59 and 60 of that decision. It was made clear that paragraph 59 that the evidence of church ministers in a conversion case is "a certain type of expert evidence" and this is "extra evidence based on personal observation or sensation" (paragraph 59). The decisionmaker's approach to such evidence

"should not start with any predisposition to reject the evidence because it does not fit in with some a priori view formed as to the credibility of the Appellant. The evidence should be considered on its merits and without any preconception" (paragraph 15).

13. Second, where a Tribunal might have formed that the Appellant has been dishonest in certain aspects of the asylum claim", then "it is legitimate for the Tribunal to regard with suspicion evidence from church witnesses which is based entirely upon what the Appellant has told them". However, this is not the case "when the evidence from the church witnesses is based in substantial part on their observations on the Appellant when he has been engaging with the activities of the church" (paragraph 60). Mr Behbani submitted that this was the case here. The Reverend Robinson had been able to personally say what in his view was the quality of this Appellant's commitment to the church and the manner of her engagement with the activities of the church. Third, the judge in the determination focused solely on the Appellant's post-arrival Christian church affiliations, and failed to consider the Appellant's activities in Iran, together with her induced repentance upon arrival in Tehran, before she was released from custody, when she went back following the treatment of her son in the United Kingdom. Fourth, the judge ought to have put questions to the Appellant, which were of concern to the judge, in order to give her an opportunity to deal with those areas of concern, and this the judge failed to do. Fifth, the judge did not deal with the evidence of two witnesses, namely, of Ms [AS], and the Appellant's son. Both presented witness statements (see pages 258 to 263 of the Appellant's bundle) and both

were in attendance at the hearing, and yet the judge did not engage with their evidence. Finally, the judge did not consider the medical evidence in its proper context. The Appellant was suffering from mental health problems. The judge had accepted that the Appellant was a vulnerable witness. He failed to attach due weight to this factor when considering the evidence.

14. For his part, Mr Tan submitted that the judge had not erred in law at all because he makes it clear (at paragraph 22) that he has considered the evidence in its totality, taking a holistic view. The judge considered the core aspects of the claim. Nothing was left untouched. What this was, was a disagreement with the decision of the judge. Sufficient reasons had then been given at the end of the determination and they could not be faulted.
15. In reply, Mr Behbani submitted that if what had happened to the Appellant in Iran was credible, then this would add weight to the risk to the Appellant upon return. It would also go some way in shoring up the credibility of the Appellant in terms of her activities in this country.

### **No Error of Law**

16. I am satisfied that the making of the decision by the judge did not involve the making of an error on a point of law (see Section 12(1) of TCEA 2007) such that I should set aside the decision. My reasons are as follows.
17. First, the Appellant was refused asylum in 2002. Her representative accepted that between 2002 and 2007 she not only remained in the United Kingdom but there was no evidence that she had been attending church. Second, she was not baptised during this period even though she claimed to be a genuine Christian convert. Third, there was no evidence that she attended any church services or evangelised (see paragraph 52). Fourth, although it is true that she voluntarily left the UK in 2007, and claimed to have been detained at the airport and then questioned until released through the intervention of her husband, she had then repented her conversion and was released. Fifth, by her own admission, the Appellant did not attend church services between 2007 and 2013, and she gave the explanation that she was prevented from doing so by her husband. However, she also added that “she did not know where to go” (paragraph 53). As the judge explained, there was a world of difference between not knowing where to go, and being controlled by her husband (paragraph 55). Sixth, the judge explained why he did not accept the Appellant to have engaged with the church in Iran as being credible (paragraph 57). Seventh, and more importantly, the evidence of Reverend Robinson, was that the Appellant had disengaged from the church for much of 2017, had only re-engaged with the church after she had been refused asylum on 29<sup>th</sup> January 2018, but the judge accepted the statement that “he personally accepted Reverend Robinson’s belief that the Appellant had disengaged due to medical problems”. This she was unaware of. Eighth, the judge made an allowance for the fact that the

Appellant in these circumstances was a vulnerable witness and applied the Joint Presidential Guidance (paragraph 64). Ninth, the Appellant was introduced to a doctor after her application for asylum had been refused and the judge was entitled to take the view that “her assessment of the Appellant is based purely on what she has seen after her claim had been refused”, and that although the Appellant may have appeared to be “disorientated and forgetful” Judge Alis took the view that “the Appellant may well be concerned about her immigration status” (paragraph 67). That conclusion was open to the judge to reach. Finally, and ultimately, in concluding that the Appellant could not succeed on the basis of being a genuine convert, the judge gave extensive reasons (see paragraphs 71 to 77) before emphasising that this was a case where, “this is an Appellant who stopped attending church for five years after her appeal was refused in 2002” (paragraph 78). Accordingly, if the Appellant was not a genuine Christian, then the judge’s view was that “she would have no reason to hide her behaviour if she was returned” (paragraph 81).

18. The appeal in this case amounts to a disagreement with the findings of the judge’s very comprehensive and detailed findings which are unassailable.

### **Notice of Decision**

The decision of the First-tier Tribunal did not involve the making of an error on a point of law. The decision shall stand.

This appeal is dismissed.

No anonymity direction is made.

Signed

Date

Deputy Upper Tribunal Judge Juss

24<sup>th</sup> January 2019