



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

Appeal Number: PA/02578/2017

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 1 October 2019**

**Decision & Reasons Promulgated  
On 18 October 2019**

**Before**

**UPPER TRIBUNAL JUDGE McWILLIAM**

**Between**

**HG  
(ANONYMITY DIRECTION MADE)**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: Ms N Braganza, Counsel, instructed by Camden  
Community Law Centre

For the Respondent: Mr T Melvin, Home Office Presenting Officer

**DECISION AND REASONS**

I have anonymised the Appellant because of the nature of the claim. She is a citizen of Eritrea. Her date of birth is 1 July 1984.

The Appellant came to the UK on 14 January 2009. She made an application for asylum on the same day. The application was refused on 1 May 2009. She appealed against this decision. Her appeal came before Immigration Judge Katharine Gordon on 18 June 2009. Judge Gordon dismissed the Appellant's appeal on 24 June 2009. She found that her account that she was a Pentecostal Christian and that she would be forced to complete military service

on her return to Eritrea was not credible. There was a reconsideration by the Respondent arising from an application for judicial review against a decision by the Respondent pursuant to paragraph 353 of the Rules. The application was refused on 27 February 2019. This was an appealable decision. The Appellant appealed. Her appeal was dismissed by Judge of the First-tier Tribunal P B Conrath in a decision that was promulgated on 6 June 2017, following a hearing at Taylor House on 11 April 2017. Applications to appeal were refused by the First-tier Tribunal and the Upper Tribunal. A “Cart” application was successful. Permission to appeal was granted to the Appellant by the Vice President on 29 May 2019, following the decision of the High Court to quash the decision of the Upper Tribunal to refuse permission to appeal against the decision of Judge Conrath.

### *Error of law*

Following an error of law hearing on 23 July 2019. I found against the Appellant in relation to grounds 1 and 2 (concerning Judge Conrath’s findings about unlawful exit and national service). Judge Conrath's finding that the Appellant would not be at risk on return, applying MST and Others (national service – risk categories) Eritrea CG [2016] UKUT 443, was maintained. However, I found an error of law in respect of the findings about the Appellant’s Pentecostal Christian faith for the following reasons:-

“30. I conclude that ground 3 is made out. I accept that the judge did not give adequate reasons to explain why he did not attach weight to the evidence of Mr Parr and Mr Sahlu in the light of the continuity of the evidence in respect of the appellant’s faith and the supporting evidence in the appellant’s bundle. Whilst it is a matter for the judge what weight to attach to the evidence, I am satisfied that in this case the judge did not give adequate reasons why he seemingly at [42] found the evidence unreliable, in the light of the body of evidence before him which was not before the first judge and the passage of time since the decision of the first judge. In the alternative I conclude that the judge did not take this evidence into account. The evidence in support of did not simply consist of pro-forma statements, which in any event, despite their format were capable of corroborating the appellant’s evidence. The judge said at [41] that matters were not materially different to what they were before Judge Gordon: a conclusion that the judge was entitled to reach, had he properly engaged with the evidence that was not before the first judge, but I am satisfied that he did not do so. The error is further compounded by the approach taken by the judge at [43] to the respondent’s submission, which does not represent a lawful approach to the appeal and the guidance in Devaseelan. It cannot be the case that in the absence of evidence about the appellant’s faith in Eritrea, the appeal could not succeed.

31. Whilst the decision of the first judge is the starting point, it was incumbent on the judge to properly consider the evidence as a whole. Whilst there were significant credibility issues before the judge and no further evidence of the appellant’s claims about events in Eritrea, the task for the judge was to consider the

position at the date of the hearing. The judge accepted that the witnesses were credible but did not engage with the totality of their evidence which was supported by the written evidence from witnesses. The judge materially erred. I set aside the decision of the judge to dismiss the appeal.

32. I communicated my decision to the parties at the hearing with the expectation that the decision could be remade. There was no objection to the matter being remade in the UT. It is accepted by the respondent that if the appellant is a Pentecostal Christian she would be at risk on return. However, the appellant failed to comply with the directions of the UT. The appellant's bundle prepared for the hearing before me did not contain evidence on which the appellant sought to rely; namely, a letter from Rev Getachew Zergaw of 23 July 2019. Ms Braganza said that it was intended that this witness give evidence. He had been unable to attend the hearing on 23 July 2019. Furthermore, the appellant had made a further witness statement dated 20 July 2019 which was not in the bundle. Mr Melvin indicated that he did not have a record of the appellant's bundle or the appellant's witness statement having been received by the respondent. He did not object to the admission of the evidence but reasonably sought time to consider it. Thus, an adjournment was requested by both parties. I expressed concern about the appellant's representative's conduct of the case. If it were not for the failure to comply with directions, the UT would most likely have been able to remake the decision as envisaged by standard directions. I reluctantly adjourned the case."

### *The resumed hearing*

At the resumed hearing Mr Melvin relied upon a skeleton argument of 30 September 2019. Ms Braganza relied on a skeleton argument of 1 October 2019. The Appellant relied on the original bundle that was before the First-tier Tribunal (AB1) and an additional Appellant's bundle (AB2). There was also additional evidence including photographs of the Appellant at the dedication ceremony of the Appellant's son that took place at the Ethiopian Christian Fellowship Church (ECFC).

The Appellant relied on the numerous witness statements in the AB1 and the AB2. In addition, seven witnesses attended the hearing and gave evidence. They were all cross-examined by Mr Melvin.

### The Evidence of Daniel Tulu

Mr Tulu's evidence is contained in a letter of 30 July 2019 (page 7 of the AB2). In addition, he gave oral evidence at the hearing.

Mr Tulu's evidence can be summarised. He is an elder at the ECFC UK in King's Cross. The Appellant is a devoted Christian and serves in the church. She has regularly attended services since 2010. Mr Tulu described his role as a church elder in some detail. He explained the distinction between Pentecostal Christians and other Christians. He said that Pentecostal Christians believe in

the empowerment of the Holy Spirit and the manifestation of “gifts” from the Holy Spirit. He said that Pentecostal Christians believe in the Trinity and the Holy Spirit. The Holy Spirit gives gifts to people. These gifts are speaking in tongues, prophecy and healing. Not all those who follow the faith have been given the gifts. He personally has been given the gift of speaking in tongues. He does not know what gifts the Appellant has, if any. He described other characteristics of Pentecostal faith including the way members of the church worship and sing. In other denominations people are baptised when they are children, for example Catholicism. However, Pentecostal Christians are baptised after they accept Jesus Christ.

The congregation evangelise at the end of every month and every Good Friday. He described this as going out and handing out leaflets about Jesus Christ and how people can be saved. He described going to hospitals and prisons amongst other things. The Appellant evangelises. The last time he was aware of her evangelising was in 2018.

In cross-examination, he described how he became qualified to become an elder. He was asked why there was no reference to Pentecostal in the name of the church or in their mission statement. He did not know why. He said that the church is a Pentecostal church and that all the congregation are committed to the faith. He did not see any reason why the word Pentecostal would be put into a letter from him to the Appellant’s solicitors. He was not aware whether there is a reference to Pentecostal in the leaflets that the congregation hand out when evangelising. The Evidence of Jonathan Parr

Jonathan Parr’s evidence is contained in his letter of 28 April 2014 to Emily Thornberry MP. At that time Mr Parr was the Assistant Director of Jesuit Refugee Service UK, on whose behalf he wrote the letter. There is a second letter to Camden Community Law Centre from Mr Parr on behalf of the Jesuit Refugee Service UK of 28 March 2017. He gave oral evidence at the hearing. His evidence can be summarised.

Mr Parr is not a Pentecostal Christian. The Appellant is a committed Pentecostal Christian. Mr Parr was asked whether it was necessary to speak in tongues in order to be a Pentecostal Christian and he said in answer to that that he suspects that the practice varies between churches. He was cross-examined about whether Pentecostalism and evangelism were different religions. He said that this was a misunderstanding. They are not mutually exclusive. Evangelism is an aspect of Pentecostalism. He did not know why the word Pentecostal did not feature on the church’s website because. He was not party to any decision relating to its content. However, he has visited the church on occasions and those participating describe it as a Pentecostal church and describe themselves as Pentecostal. The Appellant presents herself as a Pentecostal Christian. In his view, the Appellant is genuine and very impressive in her faith.

#### The Evidence of Martha Gemechu

Martha Gemechu's evidence is contained in her letter of 2 August 2019 (page 11, AB2). In addition, she gave oral evidence which can be summarised.

She is a Deacon at the ECFC in King's Cross. She described her role. Her experience of the Appellant is that she is a practising Pentecostal Christian. She met the Appellant in 2010. The Appellant regularly comes to the church to practise her faith. They evangelise every month and on Good Friday. The last time she saw her evangelise was Good Friday 2018. In cross-examination, she was asked whether she viewed Pentecostalism and evangelism as the same thing. She said that in their faith they need to evangelise and tell the truth about God. The congregation is Pentecostal because it is a Pentecostal church.

#### The Evidence of Selam Ghebremichael

Ms Ghebremichael's evidence is a short letter (page 18, AB2). In addition, she gave oral evidence. Her evidence can be summarised. She has known the Appellant for eight years. They first met through the ECFC UK church. The church is Pentecostal. The witness can speak in tongues. The Appellant does not have the gift. The majority of the congregation has the gift of speaking in tongues. She has no idea why the word Pentecostal does not appear in the church's mission statement or on their website. However, she confirms that the church is Pentecostal.

#### The Evidence of Rahel Mogos

Ms Mogos's evidence is a short letter (page 20, AB2). In addition, she gave oral evidence. Her evidence can be summarised. She has known the Appellant since 2010. They met at the ECFC UK church. She has seen the Appellant evangelising. She thinks this was sometime in 2018. However, they are always going out as a group together in order to evangelise. They distribute leaflets and proselytise their faith. The leaflets are in three languages, English, Amharic and Tigrinya. The Sunday service is in Amharic. The witness has the gift to speak in tongues and does so at the time of prayer when the Holy Spirit initiates it. The Appellant cannot speak in tongues. She was asked specifically by Mr Melvin whether you can only be a Pentecostal if you are able to speak in tongues and she said categorically that this was not the case.

#### The Evidence of Atsede Abraham

Ms Abraham's evidence is a short letter (page 16 of the AB2). In addition, she gave oral evidence. Her evidence can be summarised. She is a British citizen. She has known the Appellant since 2011 and they attend the ECFC UK. The Sunday service at the church is in Amharic. The church is Pentecostal. She was asked specifically whether the church accepts people from other religions and in answer she stated that "if they accept the only saviour is Jesus Christ". There are courses that they go through and they get baptised. She did not know if the Appellant had attended courses and she had heard that the Appellant had been baptised in Eritrea. She did not know why the word Pentecostal was not mentioned on the church's website or in its mission statement.

### The Evidence of Freweyni Tekleab

Ms Tekleab's evidence is contained in a witness statement of 21 March 2017 (page 105, AB1). In addition, there is an up-to-date letter from the witness of 23 July 2019 at (page 13, AB2). She attended the hearing and gave oral evidence. Ms Tekleab's evidence can be summarised. She has known the Appellant for a long period of time. They met at church. They both regularly attend. In cross-examination, she confirmed that the church that she attended was a Pentecostal. She explained that there are people from different nationalities in attendance. She is not sure whether there are people of different religions but the congregation speak different languages. She said the church is free for everyone to attend. She was asked by Mr Melvin whether if he were an Eritrean Methodist he would be able to attend the church and she stated that it was free for everyone. She confirmed that it is the gathering of people who believe in Jesus Christ. She has never heard the Appellant speak in tongues but confirmed that she herself has the gift.

### The Evidence of Mariam Gemechu

This witness's evidence is found in a short letter of 1 August 2019 (page 9 of the AB2). In addition, she attended the hearing and gave oral evidence. Her evidence can be summarised. She is a Deacon at the church the Appellant attends. The Appellant is a well-known and beloved sister. There are other Ethiopian Fellowship churches in London that are Pentecostal. However, most of them are offshoots from the church in King's Cross, which is the oldest ECFC. When she was asked what separates the Pentecostal church from Methodist or Baptist churches she stated that as Pentecostals they believe in the Holy Spirit and that they practise and preach their religion and tell people about the Gospel. She was not able to comment about other churches. She was asked about the difference between evangelism and Pentecostalism and stated that she was a born again Christian and Pentecostal. She was asked whether the church targets Eritreans and Ethiopians and in response she said that she preaches "for everyone."

### The Appellant's Evidence

The Appellant's evidence is contained in her witness statement of 11 April 2017 at (pages 80 and 81 of the AB1). In addition, she relied on a more up-to-date witness statement of 20 July 2019 (pages 1 and 2 of the AB2). In addition, she gave oral evidence. Her evidence can be summarised.

The Appellant identified herself on the photographic evidence (attached to the letter from Camden Community Law Centre of 22 August 2019). She said they the pictures are of her son's dedication ceremony. She described herself as a Pentecostal Christian, confirming that she does not speak in tongues but that she does evangelise. She evangelises on Good Friday and at the end of the month. She identified the three gifts as speaking in tongues, healing and prophesy. She confirmed that she does not have any gifts but she sees dreams

and described this as seeing something that could happen in the future. She was baptised into the Pentecostal church in Eritrea before she came to the UK. The last time she had contact with family members was two years ago. Her parents do not respond to her attempts to contact them and the information that she has is from her sister. The last time she had contact with her sister was after the hearing before the First-tier Tribunal in 2017. She was asked how she was able to make contact with her. She described a random meeting with a neighbour from Eritrea at London Bridge. He gave her the telephone number of her sister.

The telephone call to her sister was curtailed because the Appellant ran out of credit. She was not able to obtain details of her parents, her sister's address or that of her child. She said that her parents do not respond to her attempts to contact them. They cannot speak. She did not ask her friends at the church for funds. It was put to her by Mr Melvin that she was deliberately trying to mislead and that she was not being truthful about contact with her family members in Eritrea. It was put to her that it was not credible that she would not ask her Christian friends at the church to assist her in making contact with her family in Eritrea. The Appellant stated that she was not able to ask them because they were giving her accommodation.

The church here accepted her as a Pentecostal Christian when she first attended. There were no enquiries into her background or religion. There is no contact at the date of the hearing between the Appellant and the father of her child here in the UK. She is a genuine convert to the Pentecostal faith. The main aim of her attending church is to have a relationship with God and Jesus Christ.

She was re-examined about her parents being unable to speak. She had stated in cross-examination, that her parents are both unable to speak and that her father has hearing problems. They were both born with these disabilities. Her mother is not deaf.

### Other Evidence

There are many letters and documents in support of the Appellant's case in AB1 and AB2. There is no need for me to set them out in any detail here. I refer to the evidence to which my attention was drawn by Ms Braganza when summarising her submissions.

### **Submissions**

Mr Melvin relied on the 2017 reasons for refusal and the case of *Devaseelan [2002] UKAIT 00702*. He said that there was no further evidence from Eritrea. It was not credible that the Appellant would meet a neighbour from Eritrea at London Bridge station. This was fiction. It was not credible that the Appellant would not ask friends at the church to assist her to make telephone contact with her family in Eritrea. He asked me to uphold the decisions in 2019 and 2017 and conclude that the Appellant is not a Pentecostal Christian and was not a Pentecostal Christian prior to coming to the UK. In relation to any *sur*

*place* claim there is no evidence of a genuine conversion. There is no evidence of a baptism or the Appellant going through the rigours of the religion. The church blindly accepted her and welcomed her into its fold, where she has participated in services whilst doing a cleaning job at the church at the same time as pursuing a claim for asylum on religious grounds.

Mr Melvin indicated that he accepted that many of the witnesses that gave evidence genuinely want to believe that the Appellant is a Pentecostal Christian, however, they have not made any attempt to verify her claims of a previous baptism in Eritrea. The majority of the witnesses are either Eritrean or Ethiopian. They have come to the UK over a large period of years. There is no reason why enquiries have not been made to verify the Appellant's faith. Mr Melvin conceded initially that the evidence to support the church being a Pentecostal church was "overwhelming". However, he drew my attention to there being no reference on the church website to Pentecostal and that he said that it was seriously doubted that it was Pentecostal as claimed. He accepted though that there was "a substantial amount of evidence" pointing to the church being Pentecostal.

Mr Melvin submitted that although the witnesses may be Pentecostal the church is multi-denominational. He made reference to "diverse" in the mission statement. He confirmed the Respondent's case. It was not accepted that the Appellant is or ever was a Pentecostal Christian. It is not accepted that the church is Pentecostal or Evangelical or that the Appellant is a Pentecostal/Evangelical Christian.

In submissions, Ms Braganza drew my attention to the Respondent's concession that the Appellant is a member of the ECFC. Ms Braganza drew my attention to evidence in the Appellant's bundle which supports the Appellant's case that the ECFC is Pentecostal. She drew my attention to the issue having been raised for the first time in Mr Melvin's skeleton argument and therefore all the references to Pentecostal in the written evidence were made before it was an issue. She drew my attention to Mr Melvin's cross-examination, stating that none of the witnesses had been challenged as to their credibility. There was no expert evidence to support an assertion that the church was not Pentecostal. She drew my attention to the extensive period of time the evidence covers and the range of the evidence. In her submission, there was not much more that the Appellant could do to establish that she genuinely pursues the faith.

The Appellant has never made reference to being able to speak in tongues. It was not challenged that the church evangelises every month and that the Appellant evangelised on Good Friday in 2018. That was the Appellant's evidence and that of the witnesses.

AB1 comprises 288 pages. Much of the evidence is letters from various witnesses, some of those who attended the hearing before me. Ms Braganza drew my attention to the various pieces of evidence which refer to the church being Pentecostal. In particular, the letter from Dr Ephrem Sahlu of 24 September 2013. Dr Sahlu is a Minister in the ECFC church. He makes specific reference to the Appellant's Pentecostal Christian faith and her being a true



follower of the Pentecostal faith. In addition, his evidence is that the ECFC is the “first Ethiopian Pentecostal church to be registered as a charity and been so since 1992”. Ms Braganza drew my attention to the evidence of Senior Pastor Reverend Brian Nicholls of 1 April 2010 (page 94, AB1), which is evidence that the Leeds Christian Fellowship Church that the Appellant was said to attend at the time was Pentecostal and that the Appellant was a Pentecostal Christian. There are several witness statements (pages 98 - 119, AB1) which are capable of supporting the Appellant being a Pentecostal Christian.

### *Findings and Reasons*

The Respondent’s position prior to Mr Melvin’s skeleton argument, having considered the refusal letter of 27 February 2017, was that it is not accepted that the Appellant is a practising Pentecostal Christian. It is accepted that it may well be the perception of the witnesses that she is. The Respondent relied on *Devaseelan* to refuse her application; Judge Gordon having found in 2009 that the Appellant had a complete lack of knowledge about the faith. The Respondent’s case was advanced on this basis before Judge Conrath. Mr Melvin’s skeleton argument indicated a shift in position. It is accepted that the Appellant is a member of the Ethiopian Christian Fellowship Church (ECFC) In Kings Cross, London; however, the case was advanced on the basis that ECFC is not a “Pentecostal” church. This was not an issue that had previously been raised by the Respondent. In addition, the Respondent’s case as set out in Mr Melvin’s skeleton argument was that the Appellant had not made any attempt in the last 9 years to evangelise or pursue any obvious traits of Pentecostalism. There was no evidence of the Appellant trying to evangelise or to spread the word. The Respondent’s case, articulated in Mr Melvin’s skeleton argument, is that the Appellant’s attendance at church is more likely to be for social not religious reasons.

When assessing credibility and applying *Devaseelan*, the findings of Immigration Judge K Gordon on 18 June 2009 are the starting point. She dismissed the appeal on political and religious grounds. Judge Gordon found that the Appellant’s entire account was fabricated. Whilst Judge Conrath’s decision to dismiss the Appellant’s asylum appeal has been set aside; there are lawful and sustainable findings that the Appellant is not credible in the context of risk on return on political grounds. The fact that the Appellant has been disbelieved by two separate judges undermines her credibility. I must consider whether this is fatal to the Appellant’s case.

I remind myself that the first judge’s decision should always be the starting point; however, facts happening since the decision of the first judge can always be considered by the second judge. I must consider all the evidence in the round, including that which was not before Judge Gordon. There is a considerable amount of evidence before me capable of supporting the Appellant’s claim to be a Pentecostal Christian covering a period of up to 10 years that was not before Judge Gordon. The evidence concerns events that post-date the hearing before Judge Gordon. I had the benefit of hearing evidence from several witnesses in addition to the Appellant. I found that the

witnesses were entirely credible. There was no significant challenge made by Mr Melvin to their credibility as regards their own faith, the ECFC and the Appellant's faith.

The first issue that I need to consider is whether ECFC is a Pentecostal Christian Church. In Mr Melvin's skeleton he sought to rely on an extract from a website to support the contention that in order to be baptised in the Pentecostal faith a person must have the ability to speak in tongues. There was no disclosure of the source of this. Ms Braganza was unable to access the website at the hearing. Mr Melvin sensibly decided not to rely on this "evidence."

Mr Melvin relied on the Church's website and mission statement wherein there is no reference to the word Pentecostal. In the "History" section of this document the following is stated; "In the initial stages of the Church's history, this was predominantly through the arrival of evangelical Christians from Ethiopia." He relied on what is stated in the document under the heading "Name" where church's "diverse denominational background" is referred to. Mr Melvin relied on the latter to seek to establish that one did not have to be a Pentecostal Christian to be a member of the church. However, Mr Melvin conceded that the evidence was "overwhelming" and that there was a "substantial amount of evidence" which would point to the church being Pentecostal.

I find that no inference can reasonably be drawn from the omission of the word Pentecostal in the mission statement of the ECFC or the reference to diverse denominational background or the failure of the witnesses to be able to recollect if the word Pentecostal featured in church leaflets (a point raised by Mr Melvin during the hearing). The evidence from all the witnesses was that the ECFC is Pentecostal and they articulately explained (particularly Church Elder Tulu) what this meant and what distinguishes it from other Christian faiths. Mr Melvin said that he did not accept that the witness Mr Tulu was a Pentecostal Christian; however, he did not put this to him in cross-examination. He did not challenge any of the witness about their faith. In any event, there is simply no rational basis on which to draw the conclusion that any of the witnesses were not telling the truth about their faith, the church or the Appellant. There is simply no rational basis on which to conclude that they are mistaken about their own faith or that of the Appellant. The evidence strongly supports the opposite.

There is a substantial amount of material in the AB1 (that was before the Judge Conrath) and in the AB2 which, together with the oral evidence, strongly supports that the ECFC is a Pentecostal church. I consider the evidence of Dr Sahlu (p93, AB). His evidence is that the ECFC is the first Ethiopian Pentecostal Church to be registered as a charity since 1992. Mr Melvin referred me to the omission of the word Pentecostal in some of the witness statements; however, to be fair on the Appellant, the issue relating to whether the ECFC is a "Pentecostal" church was raised for the first time in Mr Melvin's skeleton served the day before the hearing. In any event, there are a number of references in the material before me to the church being Pentecostal. The

evidence supports that the congregation/members of the ECFC are Pentecostal Christians, albeit they may have come from other faiths and backgrounds.

I find from the evidence that evangelism is a feature of the Pentecostal faith. I understood that at one point during the cross-examination of Mr Parr, Mr Melvin was seeking to establish that evangelism is a separate faith to the Pentecostal faith. All the witnesses were consistent about when and how members of the church evangelised. I find that evangelism, in this context, is an element of the Pentecostal faith. I am not sure whether any distinction between evangelism and Pentecostalism would make any difference to the Respondent because Evangelism as a distinct religion would still put an Appellant at risk. I was confused by Mr Melvin's cross examination because I understood that it was not accepted that the Appellant evangelised. In any event, in the light of my findings nothing turns on this.

I now turn to the Appellant. There is a wealth of evidence before me that was not before Judge Gordon in 2009 about her faith. The evidence is extensive. It spans a period of 8-10 years. It is not challenged that she has been attending ECFC throughout this time. All witnesses had no doubt that she was a genuine Pentecostal Christian. They gave consistent evidence about her evangelising. I find that the Appellant evangelises. The Appellant's evidence was consistent with the witnesses that she does not have the gifts of talking in tongues, healing or prophesy. However, from the evidence, I find that these are, according to the faith, "gifts" that not all those who follow the faith have. It does not undermine the Appellant's evidence that she does not have the "gifts". She has never claimed to. Her evidence is entirely consistent with the witnesses on the issue. It is unarguable that in order to be considered a Pentecostal Christian a person would have to have the gift of talking in tongues.

I do not find that it undermines the ECFC or the evidence of the witnesses that enquiries were not made by ECFC with the Pentecostal Christian church in Eritrea that the Appellant claimed to attend prior to coming to the UK. This was a point made by Mr Melvin in cross-examination of the Appellant and in submissions. However, the church bears no responsibility to examine or scrutinise the faith of a member of the congregation. It would in my view be unreasonable to expect the church to have made enquiries by contacting the church in Eritrea.

I accept that there are significant credibility issues as regards the Appellant. Her evidence is that she was a Pentecostal Christian prior to coming to the UK. Her account of what happened in Eritrea and whether she is in contact with her family there is not entirely satisfactory. In oral evidence before me she said that her mother was not deaf. This is at odds with the evidence in her first witness statement. I find that she has not been candid about what happened in Eritrea. I share Mr Melvin's view about the evidence of meeting a neighbour at London Bridge. However, I am satisfied that this Appellant has for at least 10 years regularly attended the ECFC and followed the Pentecostal faith. There are several credible witnesses who corroborate her account. Some of the witnesses have significant roles within the church and have known her over a

significant period. It would be some feat if the Appellant has successfully hoodwinked these individuals over such a significant period so much so that they would all be willing to attend the Tribunal and give oral evidence in support of their written testimonies.

Mr Parr is an example of a witness whose evidence about the Appellant has been consistent over a period of 9 years. This was his second appearance before the Tribunal. His opinion is that the Appellant has always presented as a Pentecostal Christian with a strong commitment to the church and Pentecostalism.

I consider the Appellant's evidence that she was baptised in Eritrea. The evidence is that she has not been baptised here. I infer that ECFC is satisfied that she has been baptised as she claims and that therefore there is no requirement for her to be baptised here. I have considered this in the light of the problems with the Appellant's account about what happened in Eritrea and the reasons for coming to the UK; however, I do not find that this undermines her evidence that at the date of the hearing before me she is a practising Pentecostal Christian. Church attendance over a significant period and involvement in evangelising support this. There was nothing inherently implausible about the Appellant's evidence before me relating to her faith and commitment to the ECFC. I find that she is an active participant in the church. It is likely to be the case that the ECFC is a vehicle for socialising with fellow Eritreans; however, this does not undermine the evidence of genuine commitment. It may also be that the Appellant has at some time used her religion as a means to stay here. However, I remind myself of what the Court held in *SA (Iran) v SSHD [2012] EWHC 2575 (Admin)*, particularly at [24]:

“...It is a dangerous thing for anyone, and perhaps especially a judge, to peer into what some call and man or woman's soul to assess whether a professed faith is genuinely held, and especially not when it was agreed that she was and is a frequent participant in church services. ... 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....”

It may be that the Appellant was not a genuine Pentecostal Christian in 2009 and that over time her commitment has evolved. It may be that her claim is properly characterised as arising *sur place*. She certainly did not know very much about the faith in 2009. She had at that time not been long in the UK. There was only one live witness before Judge Gordon. He was an elder of Leeds Fellowship Church. In any event, considering the overwhelming evidence before me supporting the Appellant's genuine faith at the date of the hearing before me, there is very good reason to depart from Judge Gordon's findings. Given the standard of proof, the issues properly raised concerning the Appellant's credibility do not fatally undermine her case.

On the totality of the evidence, I conclude that the Appellant is a genuine Pentecostal Christian. For this reason, the Appellant's appeal is allowed properly applying *YT (Minority church members at risk) [2004] UKAIT 218*.

There is no need for me to make findings about the Appellant's rights under Article 8 as regards her son.

**Notice of Decision**

The appeal is allowed on protection grounds.

**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 her 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.

Signed                      Joanna McWilliam

Date 17 October 2019

Upper Tribunal Judge McWilliam