



**Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: PA/06958/2017**

THE IMMIGRATION ACTS

Heard at Glasgow
On 28 November 2019

**Decision & Reasons Promulgated
On 2 December 2019**

Before

UT JUDGE MACLEMAN

Between

R E

and

Appellant

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

For the Appellant: Mr G P McGowan, of Quinn Martin & Langan, Solicitors
For the Respondent: Mr M Clark, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. The appellant is a citizen of Iran, born in June 1974. He sought asylum in the UK in June 2015, saying that he had been detained by the Basij for 10 months for setting fires and using fireworks, and would be at risk from the authorities if returned. The respondent did not accept his account, and refused his claim. In the FtT, Judge Bradshaw found his account not credible, and dismissed his appeal. His appeal rights were exhausted on 10 August 2016.

2. The appellant made further submissions on 16 March 2017, based on having converted to Christianity. In a decision dated 3 July 2017, the respondent did not accept that he was a genuine Christian.
3. In the FtT, Judge David C Clapham, in a decision promulgated on 31 October 2017, at [57] took the decision of Judge Bradshaw as his starting point, asked why, if the appellant was not credible before, he should be believed now, and dismissed the appeal.
4. On 20 November 2017, FtT Judge Keane granted permission to appeal to the UT, on the view that there had arguably been “real scope for fact finding” notwithstanding failure of the first claim.
5. In a decision promulgated on 9 April 2018, Deputy UT Judge Farrelly held that Judge Clapham had taken the previous negative finding as a factor but not as determinative, no material error of law had been shown, and the FtT’s decision was to stand.
6. On 3 July 2018, UT Judge Perkins refused permission to appeal to the Inner House of the Court of Session.
7. The Court granted permission to appeal. In terms of an interlocutor dated 3 October 2019, following upon a joint minute by the parties, the Court set aside the decision of Judge Farrelly and remitted to the UT for consideration anew.
8. The joint minute agrees, in light of *TF & MA (Iran)* SC 81, that the findings of the tribunals left doubt as to the standard applied in assessing the appellant’s claim to have converted.
9. Mr Clark and Mr McGowan agreed on further procedure, as follows.
10. The decision of the FtT is set aside. It stands only as a record of what was said at the hearing. The nature of the case is such that it is appropriate under section 12 of the 2007 Act, and under Practice Statement 7.2, to remit to the FtT for an entirely fresh hearing. The member(s) of the FtT chosen to consider the case are not to include Judge Clapham.
11. The FtT made an anonymity direction. The matter was not addressed in the UT, so that remains in place.



28 November 2019
UT Judge Macleman