



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

Appeal Number: PA/07812/2016

THE IMMIGRATION ACTS

**Heard at Glasgow
On 15 February 2019**

**Decision and
Promulgated
On 22 February 2019**

Reasons

Before

UPPER TRIBUNAL JUDGE MACLEMAN

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

A A

(anonymity direction made)

Respondent

For the Appellant: Mr A Govan, Senior Home Office Presenting Officer
For the Respondent: Mr S Winter, Advocate, instructed by Latta & Co, Solicitors

DETERMINATION AND REASONS

1. Parties are as above, but the rest of this determination refers to them as they were in the FtT.
2. The appellant is Iranian. He entered the UK in 2000 and made an asylum claim, which was refused. Appeal proceedings were exhausted in 2002. He did not leave the UK. Following convictions which led to 3 years imprisonment, he was subject to deportation proceedings. Appeal proceedings were exhausted in 2013.

3. In a decision dated 12 July 2016, the SSHD declined to recognise the appellant's further asylum claim, based on his alleged conversion from Islam to Christianity.
4. FtT Judge Green heard the appellant's appeal on 4 August 2017. The appellant accepted that he could not rebut the presumption under section 72 of the 2002 Act. In his decision, promulgated on 15 August 2017, Judge Green found that the appellant is an apostate and an evangelical Christian, and allowed the appeal on human rights grounds under article 3 of the ECHR.
5. The SSHD applied to the FtT for permission to appeal to the UT, on the grounds that the judge erred by failing to take account of adverse findings in previous proceedings, in line with *Devaseelan*.
6. FtT Judge O'Garro refused permission on 3 November 2017, pointing out that the fact an appellant had lied about one series of events did not mean he might not be truthful on others, and taking the view that the guidance in *Devaseelan* had been correctly applied.
7. The SSHD made an application for permission to the UT, dated 28 November 2017, relying again on the previous grounds, but submitting also that even if the appellant is a convert his appeal should have been dismissed, under reference to country guidance, because there was no evidence that he might come to attention of the authorities, such as through evangelical activities.
8. UT Judge Kekic granted permission on 6 August 2018.
9. On 13 September 2018 the appellant filed a rule 24 response to the grant of permission. This submits that it is incorrect to say that the appellant had not demonstrated risk in terms of country guidance, because the FtT found that he is evangelical.
10. The appellant's point about the finding of evangelism is unanswerable. The SHD's grounds in that respect are inaccurate and misleading.
11. Mr Govan relied upon the *Devaseelan* point, which was included in the grant of permission. He submitted that the only reference to be found in the decision was to the "previous unsuccessful asylum claim" at [2].
12. Mr Winter pointed to some further references.
13. Previous unsuccessful proceedings are mentioned again at [4 (i)], [7] and [18]. The record of submissions for the SSHD at [16] is quite detailed, and says nothing specific about earlier adverse findings. At [21], the FtT weighs the fact that the appellant had not been entirely candid about his criminal past in the assessment of his evidence and of the evidence of the pastor who spoke to his conversion.

14. The *Devaseelan* ground of appeal is only insistence that because the appellant had been found to be a dishonest witness about past matters, he had to be found to be dishonest on later matters. Past adverse findings were relevant, but they were not conclusive. The suggestion that those findings were ignored overlooks the specific references in the decision. More significantly, the ground does not fairly reflect the decision as a whole, which is essentially concerned with whether the appellant was genuinely a changed man. It was open to the judge so to find, and his conclusion is not shown to have involved the making of any error on a point of law.
15. The decision of the First-tier Tribunal shall stand.
16. The FtT made an anonymity direction. The matter was not addressed in the UT. Anonymity is preserved herein.

A handwritten signature in black ink, appearing to read 'Hugh Macleman'. The signature is written in a cursive style with a large, stylized initial 'H'.

Dated 19 February 2019
Upper Tribunal Judge Macleman