



**Upper Tribunal  
(Immigration and Asylum Chamber)  
PA/08356/2018**

**Appeal Number:**

**THE IMMIGRATION ACTS**

**Heard at North Shields (Kings Court)  
On 25 April 2019**

**Decision & Reasons Promulgated  
On 8 May 2019**

**Before**

**UPPER TRIBUNAL JUDGE DAWSON**

**Between**

**MS**

**(ANONYMITY DIRECTION MADE)**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: Ms E Mendoza, instructed by Halliday Reeves Law Firm

For the Respondent: Ms R Peterson, senior Presenting Officer

**DECISION AND REASONS**

**Anonymity Order**

I make an anonymity order in relation to the appellant pursuant to Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 whereby the disclosure of any material or matter leading to the identification of the appellant, who will be referred to as MS, is prohibited. Any breach of this order may result in contempt proceedings.

1. The appellant is a citizen of Iran where he was born in 1976. He left his country of origin in December 2017 and reached the United Kingdom on 26 December 2017, where he claimed asylum the same day. He had entered clandestinely with the assistance of an agent. His claim was based on a fear of harm as a Christian. He had been born a Shia Muslim

which he only practised occasionally for the sake of his family and parents who were dedicated to this faith. His introduction to Christianity had been through a friend who had given him a Bible, and after two weeks, he began attending a House Church in Tehran. On 6 December 2017 three security officers raided the House and arrested two members. The appellant avoided capture and escaped. He has been attending the Church and Bible studies in the United Kingdom.

2. The appellant was questioned about his claim on 14 June 2018 and in a decision dated 21 June 2018 the Secretary of State refused the claim and gave his reasons for doing so. He did not accept the appellant's conversion to Christianity in Iran or his claim that he had come to the adverse attention of the authorities due to inconsistencies and a lack of coherency in his account. Furthermore, it was not accepted that he had left illegally. The Secretary of State did not accept that the appellant would be at real risk of serious harm on return.
3. First-tier Tribunal Judge Monaghan heard evidence from the appellant and Mr Norman Shave, a vicar of Stranton Church, Hartlepool. The judge rejected the appellant's account of his conversion in Iran and subsequent events that occurred and furthermore concluded the appellant was neither a credible witness nor a consistent one in respect of his claim to be a genuine Christian convert in the United Kingdom.
4. The judge's reasoning for his findings in relation to events in Iran was based on inconsistencies and implausible evidence by the appellant. In respect of matters in the United Kingdom, the judge gave limited weight to the evidence of Mr Shave as explained in [79]:

"79. Whilst there is no doubt therefore that Revd Shave has genuinely held views that the Appellant is a genuine Christian convert with an ongoing desire to follow Christ as set out in his letters and confirmed in his oral evidence, I find that he has known the Appellant for only a relatively short period of time and that during that same period, his direct experience and interaction with the Appellant, by the very nature of his overall responsibilities for a large Parish, has been somewhat limited. No criticism is levelled at Revd Shave who has shown the nature of his genuinely held beliefs by being prepared to attend the Hearing to give evidence on behalf of the Appellant, but I am able to place less weight on his evidence for the reasons I have outlined herein."

5. The judge continued at [80] to [82] with further reasons for doubting the appellant's credibility as follows:

"80. Further, and of greater concern in assessing Revd Shave's evidence and the weight I can attach to it, are the statements that the Appellant has made to him in their early conversations together, which naturally will have been when Revd Shave started to make his own assessment of the Appellant's beliefs and whether they were genuine. In particular, the Appellant described to Revd Shave his conversion to Christianity whilst in his home city of Tehran. He said that he was drawn to Christianity because of an emphasis on love and kindness, he described his attendance at Oasis Church (although no confirmation of this was provided), and started attending Stranton Church. In his

asylum interview when asked about the circumstances of his introduction to Christianity, the Appellant describes the influence of his childhood friend R and in particular, at length at Q77 he describes how he was in a bad situation at the time as his father was ill in hospital and how his friend seeing his situation said that he would take him somewhere to introduce him to a faith and also provided him with a Bible.

81. Although Revd Shave later refers to the Appellant's father being sick in hospital, this was not in connection with the Appellant's initial conversion to Christianity but in the context of the Appellant's belief specifically in the Holy Spirit and the influence of Christian prayer which the Appellant believed caused his father to get better.
82. Therefore the Appellant did not make any mention to Revd Shave of the influence of his childhood friend R, not the direct connection to his father's illness, which lead to his conversion to Christianity when talking about the circumstances of his conversion, and instead referred generically to "an emphasis on love and kindness." Given that these were significant events, it is not credible that he failed to mention them to Revd Shave in the context of his claimed conversion. I conclude therefore that Revd Shave's appreciation of the Appellant's position must necessarily be limited as it appears that the Appellant did not disclose fully to him the facts leading up to his claimed conversion. Further the Appellant has been inconsistent in his account, by giving one version of events in his asylum interview and a different one to Revd Shave."

By way of conclusion, the judge explained at [83] and [84]:

- "83. I find therefore that the Appellant is not a credible witness, nor a consistent one in respects of his claim to be a genuine Christian convert and that he has failed to establish his case even to the lower standard required.
84. I accordingly place little if any weight on his regular attendance at Church and Bible study, his baptism and his confirmation in that Church and find that these are simply devices to seek to remain in the United Kingdom. I further find that if the Appellant is returned to Iran, he is highly unlikely to continue any form of Christian observance. Once back in Iran, the appellant would have no reason whatsoever to attend church."

6. In a renewed application to the Upper Tribunal, it was argued at [2.4] that the judge erred by failing to apply:

"... close and anxious scrutiny to the supportive evidence of UK based church activity ...; discounting this important evidence based upon earlier findings in relation to MS's account of events in Iran."

7. This is followed in [2.4] with the sentence:

"The activities of MS whilst in the UK cannot rationally be discounted based upon the expert report was material evidence [sic], which supported key aspects of GA's case; if the FTT was going to reject the expert report, it should have explained why."

8. Permission to appeal was granted by Upper Tribunal Judge Macleman. He observed that debate has been raised whether the structure of the judge's decision was consistent with the approach explained in *TF and MA* [2018] CSIH 58 but he questioned the meaning of [2.4]
9. On the last point neither Ms Mendoza nor Ms Petterson was able to throw any light on the reference to GA's case.
10. Ms Mendoza argued that the judge had disregarded Mr Shave's report. Although she accepted that it was correct that the appellant had given a different account of the Iran based conversion to Mr Shave from that in interview by the Home Office, this aspect needed to be balanced against the other evidence which included the observations of the appellant by Mr Shave. She also argued that there had been a failure to consider the evidence of the genuineness of the appellant's conversion.
11. By way of response, Ms Petterson argued that the judge had given proper consideration to Mr Shave's evidence and he had taken account of more than just the inconsistencies between the interview and account relied to Mr Shave. Adequate reasons had been given for finding that Mr Shade had been misled.
12. In her brief reply, Ms Mendoza referred to the approach enjoined in *TF and MA v SSHD* [2018] CSIH 58 and clarified that it was a reasons based challenge and not one of rationality.
13. In my judgment the judge gave adequate sustainable reasons for disbelieving the claimant as set out in the parts of his decision cited above. The judge had rejected the account of events in Iran and it is significant that there is no challenge to this aspect. He was entitled to note that absence of evidence from previous places of worship for which he did not give undue weight (at [75]) and it cannot be said that he overlooked any of the evidence of the appellant's church based activities and that of Mr Shave as will be seen from paras [76] to [78]. There is no basis for Ms Mendoza's submission that Mr Shave's evidence was disregarded; it was considered in some detail as will be seen in the paragraphs (cited above and later in this decision).
14. Lord Glennie in *TF and MA* explains at para [3] that the appeals had been heard together because:

“they appeared to raise similar questions relating to the appropriate treatment of certain types of evidence in cases where the genuineness of the *sur place* conversion is challenged. They do in fact raise a number of overlapping questions, viz: as to the status of evidence from church leaders (or others holding positions of responsibility within a church) about the conduct of a person who has begun the process of admission into the church and as to the sincerity of his conversion to Christianity; as to the weight to be given to such evidence; and whether the usefulness of such evidence as a guide to the genuineness of the *sur place* conversion is undermined by findings that, in relation to other matters, the appellant, the applicant for asylum, has given evidence which is untrue or unreliable and/or may be said to undermine his basic credibility”.

## 15. At [60] Lord Glennie observed:

“[60] In a case where the tribunal has formed a view, albeit only a provisional view, that the appellant has been dishonest in certain aspects of his claim for asylum or in other material respects, 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. But save in a clear case, that exercise is not legitimate when the evidence from the church witnesses is based in substantial part on their observations of the appellant when he has been engaging with the activities of the church.”

## 16. It cannot be said that the judge rejected the appellant's claim to his conversion because he had not told the truth about events in Iran. The fact of the appellant having given a different account of his conversion in Iran was not the only basis on which he did not accept the evidence of Mr Shave. Instead, it was a factor that the judge took into account in deciding the weight to be given to Mr Shave's evidence. It is pertinent to record the judge's observations in paras [76] to [78]:

“76. I also take account that the Appellant has been attending his present Church, All Saints Church, Stranton since 05/02/2018, a period of only five months. During that time, it is Revd Shave's evidence that the Appellant has attended church regularly and been a regular member of a study group which meets weekly. Therefore Revd Shave has been in the company of the Appellant twice weekly or so for only around twenty weeks. Whilst the study group is relatively small, being five or six in number, it is Revd Shave's evidence that around 50-60 adults attend the main Sunday service at the Church. Therefore it is reasonable to conclude that Revd Shave's interaction with and observance of the Appellant at the Sunday service will have been somewhat limited by virtue of the number of people he is administering to at that time. I do accept that Revd Shave did have more extensive interaction with the Appellant at the much smaller Bible study group on a weekly basis.

77. Revd Shave has also confirmed in his letters that his Church has a total membership of around 140 people. In his oral evidence before the Tribunal he said that he was not able to sustain any regular ongoing contact with those people who had successfully claimed asylum and since relocated elsewhere, pointing out that understandably he has to concentrate his Ministry on those who remain in his Parish.

78. Revd Shave was also a little uncertain about the number of people the Appellant had brought to the Church when he was asked about this in evidence. He initially said two or three and when pressed a little further said 'more than one; at least two; may have been three.'”

## 17. By way of conclusion I am satisfied that the judge did not err in his decision on the basis of the grounds of challenge as argued before me. The judge gave adequate reasons without legal error in finding that the appellant was not a genuine convert to Christianity on the evidence and that he would not be at risk on return to Iran.

DECISION

18. This appeal is dismissed.

Signed

Date 2 May 2019

UTJ Dawson

Upper Tribunal Judge Dawson