



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

Appeal Number: PA/09766/2018

THE IMMIGRATION ACTS

**Field House
On 21st January 2019**

**Decision & Reasons Promulgated
On 4th February 2019**

Before

UPPER TRIBUNAL JUDGE LINDSLEY

Between

**HZ
(ANONYMITY ORDER MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr S Woodhouse from HS Immigration Consultants
For the Respondent: Mr S Kotas, Senior Home Office Presenting Officer

DECISION AND REASONS

Introduction

1. The appellant is a citizen of Iran born in 1987. He arrived in the UK in February 2018 and claimed asylum on the same day, his claim being based on his conversion from Islam to Christianity. His application for asylum was refused on 30th July 2018. His appeal against the decision was dismissed by First-tier Tribunal Judge AK Hussain in a determination promulgated on the 20th September 2018.

2. Permission to appeal was granted by Judge of the First-tier Tribunal Pedro on 15th October 2018 on the basis that it was arguable that the First-tier judge had erred in law in failing to take into account material evidence; in the assessment of the appellant's credibility; by a misdirection of the principles in HJ (Iran) [2010] UKSC 31; and by misdirecting himself about internal relocation.
3. The matter came before me to determine whether the First-tier Tribunal had erred in law.

Submissions - Error of Law

4. The grounds of appeal are, in summary as follows:
5. Firstly, the First-tier Tribunal Judge accepts that the appellant is a Christian convert at paragraph 18 of his decision, but finds, at paragraph 20 of the decision, he would not be in danger as there is no evidence the appellant has come to the adverse interest of the Iranian authorities or that he or the Christadelphian church actively engages in evangelising as part of his or their identity. It is argued that the First-tier Tribunal failed to take into account material evidence before it that the appellant and his church do in fact engage in evangelising behaviours in the UK.
6. Secondly, it is argued that the First-tier Tribunal Judge erred in law in finding that the Sepah, which is part of the Iranian Revolutionary Guard, would not have carried out the raid on the house church as described by the appellant, based on the manner in which this is done which is assessed as being implausibly incompetent, as this is a finding not supported by any evidence.
7. Thirdly, it is argued that there was a failure to follow the Supreme Court decision in HJ (Iran) as it is contended that the evidence shows that the appellant would not practice his religion openly and actively evangelising in Iran because he is afraid of persecution, and thus he qualifies as a refugee.
8. Fourthly, it is argued that it was an error of law to find the appellant could relocate and find safety by internal relocation when in fact his evangelism would mean that he would continue to be at risk, see AS (Iran) v SSHD [2017] EWCA Civ 1539.
9. Fifthly, it is argued that there was a failure by the First-tier Tribunal to determine the human rights appeal.
10. The respondent states in a Rule 24 letter that he does not oppose the application for permission to appeal and invites the Upper Tribunal to remake the appeal based on the findings of the First-tier Tribunal at a continuance hearing. At the hearing before me Mr Kotas clarified that the Rule 24 meant that the respondent had conceded that the grounds of appeal were correct and the decision of the First-tier Tribunal had

erred in law. It was therefore accepted by the respondent that the appellant was an evangelical Christian.

11. It was therefore agreed by both parties that there was an error of law, and both parties were also in agreement that there was no need for a further hearing or additional submissions. I should simply remake the appeal on the basis of the respondent's current position.

Conclusions - Error of Law and Remaking

12. By consent it is agreed that the First-tier Tribunal erred in law as set out in the grounds of appeal.
13. I find therefore that the evidence shows that the Christadelphian church does evangelise and that it is shown to the required standard of proof that the appellant would do so on return to Iran as a member of this church, bar being afraid of persecutory action by the Iranian authorities. I find that he therefore has a well- founded fear of persecution on return to Iran on grounds of his religion, in line with the country guidance set out in SZ and JM (Christians - FS confirmed) Iran CG [2008] UKAIT 00082; the findings of the Court of Appeal in AS (Iran) v SSHD [2017] EWCA Civ 1539; and the European Court of Human Rights decision in A v Switzerland. This finding is also in line with the Country Policy and Information Note Iran: Christians and Christian Converts Version 4.0 March 2018 at 2.2.11 which concludes that a convert to Christianity would be at real risk of serious harm if they engage in evangelical or proselytising activities.

Decision:

1. The making of the decision of the First-tier Tribunal involved the making of an error on a point of law.
2. I set aside the decision of the First-tier Tribunal.
3. I re-make the decision in the appeal by allowing it on asylum and human rights grounds.

Pursuant to Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 (SI 2008/269) I make an anonymity order. Unless the Upper Tribunal or a Court directs otherwise, no report of these proceedings or any form of publication thereof shall directly or indirectly identify the original appellant. This direction applies to, amongst others, all parties. Any failure to comply with this direction could give rise to contempt of court proceedings. I do so in order to avoid a likelihood of serious harm arising to the appellant from the contents of his protection claim.

Signed: Fiona Lindsley

Date: 21st January 2019

Upper Tribunal Judge Lindsley