



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: PA/10885/2018

**THE IMMIGRATION ACTS**

Heard at Field House  
On 18 December 2018

Decision & Reasons Promulgated  
On 24 January 2019

Before

**DR H H STOREY**  
**JUDGE OF THE UPPER TRIBUNAL**

Between

**MR S P**  
**(ANONYMITY DIRECTION MADE)**

Appellant

and

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

Respondent

**Representation:**

For the Appellant: Mr C Howells, Home Office Presenting Officer

For the Respondent: Ms F Robertson, Counsel, instructed by Virgo Solicitors

**DECISION AND REASONS**

1. The respondent (hereafter the claimant) arrived in the UK in July 2016 clandestinely and claimed asylum the same day. The basis of his claim was that he had fled Iran because he had begun attending a Christian house church which was raided by the police. The appellant (hereafter the Secretary of State for the Home Department or SSHD) did not find his claim credible and on 29 August 2018 refused his asylum claim. The claimant appealed. In a decision sent on 26 October 2018 Judge O'Brien of the First-tier Tribunal, (FtT) found that "[t]here is nothing inherently incredible

about the [claimant's] claimed exposure in Iran to Christianity" (paragraph 38) and concluded at paragraphs 43-45 as follows:

"43. In my judgment, those matters taken together with the [claimant's] church activities in the United Kingdom are sufficient to establish to the lower standard that he has genuinely converted to Christianity after becoming involved in a house church in Iran.

44. In those circumstances, I am prepared to accept that it is reasonably likely that the [claimant's] involvement was discovered by the Iranian authorities during their raid of that church and that he would be subjected to persecution on the grounds of religion if returned.

45. Even if the [claimant] had not already come to the attention of the Iranian authorities, I accept that, if returned, he would continue to worship in Iran as a member of a house church and would involve himself in proselytising activities, thereby placing himself at real risk of persecution."

2. The SSHD's grounds of appeal were that the judge had made a material misdirection of law in making findings in paragraph 42 that ran contrary to the principles outlined in Dorodian (01/TH/01537/IAT). The claimant's failure to produce a live witness regarding the true nature of his conversion should have been treated as contrary to Dorodian principles. At paragraph 42 the judge said:

"42. Regrettably, no minister has attended today from the parish church to give live evidence on behalf of the [claimant]. Had the Appellant's claim been that he had converted to Christianity after arriving in the United Kingdom, this failure would likely have been fatal to the [claimant's] claim, per Dorodian. However, I have already accepted the plausibility of the [claimant's] account of events in Iran and that he displayed a reasonable knowledge of the Christian faith for his age and claimed period of involvement when interviewed on 2 February 2018."

3. I am grateful to both representatives for their clear and succinct submissions.
4. I have concluded that the SSHD's grounds are not made out, for two principal reasons.
5. The first reason why I consider the grounds fail is that they confine their challenge to the claimant's account of his conversion to Christianity since arrival in the UK and raise no challenge to the claimant's account of his experiences in Iran. On the claimant's account of those experiences he had already become involved with a Christian house church and, following a raid on this church, was likely to be perceived by the authorities as a Christian proselytiser, irrespective of whether he was a genuine convert.
6. Second, the judge's assessment of paragraph 42 amounts to saying that:
  - (i) if the issue of whether the claimant was a genuine convert had depended on his religious experiences since arrival in the UK, the judge would have applied Dorodian principles against him;

- (ii) however, his account did not depend on his post-arrival experiences because “I have already accepted the plausibility of the [claimant’s] account of events in Iran and that he displayed a reasonable knowledge of the Christian faith for his age and claimed period of involvement ...”.
7. Further, it goes too far in my view to treat **Dorodian** as setting out prescriptive “principles” deviation from which amounts to legal error. That is not how the Tribunal presented its guidelines in **Dorodian**; the judge described them merely as “suggestions” (paragraph 8). Also counting against these suggestions being taken to represent the correct legal position is the reality of many subsequent developments in the case law. In this regard I consider the criticism of **Dorodian** made by the Scottish Inner House in **TF, MA and SSHD** [2018] CSIH 58, 30 August 2018 to be correct, as it is more in line with current jurisprudence and academic authority.
8. For the above reasons I conclude that the judge did not materially err in law and accordingly the judge’s decision to allow the appeal must stand.

**Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008**

Unless and until a Tribunal or court directs otherwise, the claimant is granted anonymity. No report of these proceedings shall directly or indirectly identify him or any member of their family. This direction applies both to the claimant and to the SSHD. Failure to comply with this direction could lead to contempt of court proceedings.

Signed

Date: 12 January 2019



Dr H H Storey  
Judge of the Upper Tribunal