Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: PA/07893/2019 (V)

THE IMMIGRATION ACTS

Heard by Skype for business	**Decision & Reasons Promulgated**
On 26 February 2021	**On 10 March 2021**

Before

UPPER TRIBUNAL JUDGE REEDS

Between

H B
(ANONYMITY DIRECTION MADE)

Appellant

AND

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:
For the Appellant: Mr P. Corben, Counsel on behalf of the appellant.
For the Respondent: Mr M. Diwncyz, Senior Presenting Officer

DECISION AND REASONS

Introduction:

1. The appellant appeals with permission against the decision of the First-tier Tribunal Judge P-J White (hereinafter referred to as the "FtTJ") promulgated on the 25 September 2019, in which the appellant's appeal against the decision to refuse his protection claim was dismissed.

2. I make a direction regarding anonymity under Rule 14 of the Tribunal Procedure (Upper Tribunal Rules) Rules 2008 as the proceedings relate to the circumstances of a protection claim. Unless and until a Tribunal or court directs otherwise the appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify him. This direction applies both to the appellant and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.

3. The hearing took place on 26 February 2021, by means of *Skype for Business*. which has been consented to and not object1d to by the parties. A face- to- face hearing was not held because it was not practicable, and both parties agreed that all issues could be determined in a remote hearing. The advocates attended remotely via video as did the appellant who was able to see and hear the proceedings being conducted. There were no issues regarding sound, and no technical problems were encountered during the hearing and I am satisfied both advocates were able to make their respective cases by the chosen means.

Background:

4. The appellant is a national of Pakistan. He entered the United Kingdom on 29 May 2010 with a visit visa valid until 4 November 2010. He was encountered on 5 November 2013 and thereafter made an application for leave to remain on human rights grounds, which was refused on 12 August 2014. He made a similar application which was refused on 14 March 2016. He submitted further representations, which were treated as a further application, on 9 August 2016, but that application was refused on 8 September 2016.

5. On 3 November 2017 he claimed asylum. He underwent a screening interview and subsequently an asylum interview. The basis of his claim was that he had converted to a being an Ahmadi Muslim who had been threatened by his father and who had a fatwa issued against him.

6. In a decision letter of 4 May 2018, the respondent refused his protection claim. Beyond accepting the appellant's nationality, the respondent rejected the factual basis of is claim and the appellant's conversion to the Ahmadi faith and the threats from his father. It had not been accepted that he had a genuine subjective fear on return to Pakistan nor that there was any reasonable degree of likelihood that he would be persecuted given that he had not demonstrated that he was a genuine Ahmadi convert.

7. The appellant appealed that decision, and it came before the FtT (Judge Morris) on 29 November 2018. In a decision promulgated on 13 December 2018, the FtTJ dismissed his appeal finding that the

appellant had not demonstrated on the evidence that he was a genuine Ahmadi convert and therefore would not be at risk on return to Pakistan.

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8. The appellant submitted further representations on 9 May 2019 and provided further evidence in support of his claim. It was accepted as a fresh claim but was refused in a decision of 25 June 2019.

9. The appellant's appeal against the respondent's decision to refuse his protection claim came before the First-tier Tribunal (Judge P-J White) on the 16 August 2019.

10. In a determination promulgated on the 25 September 2019, the FtTJ dismissed his protection claim. The judge heard evidence from the appellant and his partner and also consider the documentary evidence that had been provided on behalf of the appellant. The judge concluded that having considered all of the evidence in the round and in the absence of any clear and consistent chronology or explanation of his claimed conversion and the lack of any genuinely independent and testable confirmation of his claim, the judge reached the conclusion that he was not a witness of credibility and that he reached the same conclusion as the previous judge that the appellant had not demonstrated that he was a genuine Ahmadi convert.

11. The FtTJ therefore dismissed the appeal.

12. Permission to appeal was issued on the 9 October 2019 and on 27 January 2020,
permission to appeal was granted by FtTJ Shimmin stating:-

> "It is arguable that the judge has made a material mistake of fact or unfairness in respect of the appellant's oral evidence.
> Furthermore, it is arguable that the judges made inconsistent and/or unclear findings in respect of the AMA /Jamaat policies towards the vetting of individuals and that organisations supported them in asylum appeals with the result that inconsistent and or/unclear findings have been made. I grant permission on both grounds."

<u>The hearing before the Upper Tribunal:</u>

13. In the light of the COVID-19 pandemic the Upper Tribunal issued directions on the 13 July 2020, inter alia, indicating that it was provisionally of the view that the error of law issue could be determined without a face- to- face hearing. Following the parties submitting their written submissions on 9 October 2020 directions were given for a remote hearing to take place and that this could take place via Skype. Both parties have indicated that they were content for the hearing to proceed by this method. Therefore, the Tribunal listed the hearing to enable oral submissions to be given by each of the parties with the assistance of their advocates.

14. Mr Corben on behalf of the appellant relied upon the written grounds of appeal and the written submissions dated 21 July 2020.

15. There was a written response filed on behalf of the respondent dated 13 July 2020.

16. I also heard oral submission from the advocates, and I am grateful for their assistance and their clear oral submissions.

Preliminary issue:

17. Before dealing with the substantive grounds, it is necessary to address a preliminary issue raised by Mr Corben on behalf of the appellant. It had not been raised in the written submissions previously served on the Tribunal and the respondent.

18. It relates to the grant of permission. Mr Corben submitted that the FtTJ when granting permission considered that the arguable errors related to the first two grounds but had made no reference to the ground 3 and that above the line in the decision it is stated “granted”. Mr Corben submitted that this should not be read as a limited grant of permission.

19. I have considered the submission in the light of the grant of permission. The relevant decision is that of Safi *and others (permission to appeal decisions) [2018]* UKUT 388 (IAC).

20. The headnote to that decision stated as follows:

(1) It is essential for a judge who is granting permission to appeal only on limited grounds to say so, in terms, in the section of the standard form document that contains the decision, as opposed to the reasons for the decision.
(2) It is likely to be only in very exceptional circumstances that the Upper Tribunal will be persuaded to entertain a submission that a decision which, on its face, grants permission to appeal without express limitation is to be construed as anything other than a grant of permission on all of the grounds accompanying the application for permission, regardless of what might be said in the reasons for decision section of the document.

21. The grant of permission makes no reference to Ground. 3 Not only it is unclear why the FtTJ did not consider the third ground which was clearly set out in the application, if he intended this to be a limited grant of permission, the FtTJ has not done so in a way which complies with Safi *and others (permission to appeal decisions) [2018]* UKUT 388 (IAC) as set out above. The FtTJ failed to incorporate his intention (if there was such an intention) to grant permission on limited grounds within the decision section of the standard document, where it is simply stated, ' granted'. If a judge intends to grant permission

only on limited grounds, he or she must make that fact absolutely clear. That is not the position here and there is no reference to the appeal grounds being limited in the way set out by the Upper Tribunal in Safi (see paragraph 43). I am not satisfied that there are any exceptional circumstances that exist to limit the grant of appeal nor have any been identified by Mr Diwnycz and I am further satisfied that there is no unfairness to the respondent who has submitted written submissions dealing with all of the grounds and thus being able to engage with the issues raised. I shall therefore consider with all three grounds.

The grounds of challenge:

22. Mr Corben submitted that his primary submission was that grounds 2 and 3 were the stronger grounds. He submitted that the ground 1 raised three points from the evidence and that he accepted that a finding on any individual point would not be sufficient in itself to cause the decision to be subject to sufficient criticism as there were other aspects of the decision that weighed against the appellant. However if it could be said that there were a collection of errors the combination of them would tip the scales in favour of the appellant. Therefore it did not require much for ground 1 to tip the balance to demonstrate the decision was unsafe. In his submission, a favourable finding on grounds 2 and 3 would be sufficient even ground 1 was rejected in its entirety.

23. Mr Corben began his submissions by referring the Tribunal to ground 3 on the basis that this was the strongest ground. I shall refer the parties' submissions when considering each ground.

Ground 3:

24. In respect of ground 3, it is submitted that the FtTJ failed to make any findings on the possibility of risk arising from family members or others in Pakistan on the basis that notwithstanding whether he was a credible Ahmadi convert, the things that he had done in light of the activities posted on Facebook, would mean that he would be perceived as having converted to the Ahmadi faith.

25. Mr Corben on behalf of the appellant submitted that the FtTJ considered the issue in his decision at [31] but only dealt with the general risk arising from "extremist factions". He therefore submits that there was no reference to the reaction of the appellant's family even though there was evidence of his uncle who heard of his conversion and reacted strongly by ejecting him from the home in the UK. He submitted that it was the appellant's account that it was his uncle who told his father which prompted him to disown him and threatened him and that and a fatwa was issued against him.

26. It is further submitted by Mr Corben that there was evidence of his involvement in Ahmadi activities posted on Facebook and whatever the FtTJ found about his credibility, the images would be available.

27. Mr Diwnycz relied upon the written submissions dated 13 July 2020. It is argued there that the respondent did not accept that it was necessary for the judge to make findings of risk from his family because the judge had found that the appellant's conversion not to be genuine. Therefore, in the circumstances they would be no reason to believe that the family would be unaware of this or that if they were aware, they would still pursue the appellant once they understood that it was not a genuine conversion.

28. I have carefully considered the submissions of the advocates and having done so I am satisfied that ground 3 is not made out. I shall set out my reasons for reaching that view.

29. The point raised on behalf of the appellant is that even if the FtTJ reached the conclusion that the appellant was not a genuine Ahmadi convert, there was an arguable risk that on return that he would be perceived as an Ahmadi convert, and thus would be at risk of harm.

30. Mr Corben points to paragraph [31] of the decision and submits the judge failed to properly address the alternative basis of risk of serious harm on return.

31. The evidence relied upon in support of the submission relates to the appellant's activities in the UK in the form of his Facebook posts and activities and the fatwa. However, the FtTJ at [31] expressly considered these activities stating,

> "I have noted the alternative submission that he will be at risk as a perceived Ahmadi on return. I have no evidence which can regard as reliable that anything he has done in this country to create the impression of conversion has or will come to the notice of extremist factions in Pakistan. In any event, the country guidance makes clear that while all Ahmadi's face discrimination in Pakistan, not all of them face persecution. Those who seek to practice their faith openly are at risk, and those who would do so but for fear of persecution will also be entitled to protection. The appellant will not seek to practice his Ahmadi faith on return, I am satisfied, not because of fear of the consequences but because he is not genuinely a convert to the Ahmadi faith. Accordingly he will not be at risk on this basis either."

32. Whilst the judge referred to "extremist factions" it could equally apply to any other person in Pakistan. The important part of the FtTJ's assessment was that he found that there was no evidence which he could regard as "reliable evidence" that any activity carried out in the UK to create an impression of conversion would come to the attention of anyone in Pakistan. This was based on the FtTJ's earlier assessment of the appellant's evidence set out at paragraphs [26] – [27]. In

respect of the photographs taken, the appellant attending the Jalsa Salana 2019 and attending prayers, the judge considered that his face was "very indistinct". The evidential inference drawn from that finding is that the photographic evidence did not identify the appellant in any distinctive or readily ascertainable way. Whilst the judge accepted that he had put material on his Facebook page suggesting that he was now in Ahmadi, it had not been established in the evidence whether the access to the Facebook page was either open to all or was in fact closed or controlled by the appellant (at [26]). At [27] the judge considered the evidence of the fatwa and threats to kill by the appellant. The FtTJ made the following findings:

> "I have a document with translation, which on its face is a fatwa dated 1 February 2019 issued by K N and signed by someone styling himself Principal Patron. I have no explanation why this has been issued if there is already a fatwa, as claimed before judge Morris, or by whom, or how the issuer learned of the appellant's conversion. I also have a text message sent from a Pakistan telephone number to the appellant's phone on 16 February 2019, threatening to kill him, this text being in English and accompanied by what looks like a photo of the fatwa if it is not I have no evidence how the appellant obtained the fatwa. Again there is no indication from whom this comes, save that it said it is from someone who was already cut off relations with the appellant, and have since learned from his Facebook page of his conversion. That is strange, since the only account I have of a severing of relations, from friends or family, is because of the conversion, but this person must have severed relations for some other reason. While how the writer was later accessing the appellant's Facebook page or learned his mobile number is unclear. It is remarkably convenient within two months of the dismissal of his first appeal the appellant received two separate documentary confirmations that his life is indeed at risk."

33. It is therefore plain from those factual findings made by the FtTJ that he did not accept that the evidence relating to the threats or the fatwa was reliable evidence upon which he could place weight. Consequently those findings at paragraphs [26] – [27] when seen in the context of paragraph [31] demonstrate that the judge did make a factual assessment of the risk the appellant on the alternative basis claimed, but was entitled to find that the appellant had not demonstrated that any of his claimed conduct had come to the attention of others in Pakistan or would come to anyone's attention given the lack of credible and reliable evidence in support either in the form of threats, or activities undertaken in the United Kingdom. Therefore the FtTJ did not find that the appellant had any profile that would bring him to the attention of any others on return to Pakistan.

34. Whilst it is argued that the risk also exists in relation to his family on the basis of threats made by them, I do not consider that this evidence can be considered in isolation from the other credibility findings made by the FtTJ. It is plain from the decision when read as a whole that after considering all of the evidence, which included the evidence of threats (see [27] and [28]) that he found the appellant to

be “a witness of no credibility” and that he was not a genuine Ahmadi convert and that is “asylum claim is a fabrication” and that he would not be at risk on return (see conclusion at [30]). It must follow from that overarching finding that the FtTJ did not find that the appellant had given a credible account concerning any of his evidence including threats from family members concerning his claimed conversion. That being the case, on the factual findings made by the FtTJ, there can be no possible basis for the submission made that he would be perceived as someone who converted to the Ahmadi faith. As the respondent submitted the judge having found that he was not a witness of truth or credibility, and that his claim had been fabricated, there was no basis for any alternative finding in relation to the risk from family members.

Ground 2:

35. Dealing with ground 2, it is submitted by Mr Corben that the FtTJ made inconsistent findings regarding the vetting and support given in asylum claims by the AMA UK at paragraphs 22 and 23 of the decision.

36. Mr Corben directed the tribunal’s attention to paragraph [22] where the FtTJ stated: “despite the comments of Judge Morris on the point none of the writers attended to give oral evidence, nor indeed did anyone else from the mosque or from any Ahmadi events attended. The letters did not explain why they did not attend.” He submits that the judge was relying on the point that no witnesses had attended court from the AMA UK in support of the appellant’s account.

37. Mr Corben then directed the tribunal to the FtTJ’s decision where the judge set out the appellant’s explanation (also at [22]) as follows: “the appellant told me they were not there because Jamaat would not allow them to give evidence. No evidence of any such policy or ruling was provided. “ It is therefore submitted that the judge did not believe the appellant’s explanation that there was a restriction upon the Ahmadi members giving evidence but at [23] the judge stated that he was “aware of the policy of the AMA not to issue formal letters confirming a person’s conversion until two years have passed.”

38. In summary it is therefore submitted that at one stage the judge condemned the appellant for not having more substantial material from the AMA UK for his claim but then criticised the written evidence which had been provided on the basis of the policy stated that no such evidence would be given until the expiry of two years.

39. Mr Corben therefore submits that the approach taken by the FtTJ is both inconsistent and unfair to the appellant. At [22] the judge was not satisfied that the policy existed to prevent the AMA attending court but at [23] the FtTJ that did appear to accept that there was such a policy of the AMA not to issue formal support letters until two

years vetting in past. He submitted that the judge failed to understand or properly make any clear findings on the policies and this affected the assessment of whether the appellant was a genuine Ahmadi convert.

40. Mr Diwnycz on behalf of the respondent relies upon the written submissions. It is submitted that the references to the evidence and the judge's findings are selective and that by placing reliance on those highlighted paragraphs ignore the decision as a whole and that within paragraphs [22] – [29] the FtTJ carefully weighed all the evidence in support of the claimed conversion before reaching the conclusion at [30] that he was not witness of truth as to his claim to be a genuine Ahmadi convert.

41. Having considered with care the submissions made on behalf of the appellant, I am satisfied that there is no error of law on the basis advanced in ground 2.

42. The grant of challenge focus on two particular paragraphs of the FtTJ's decision. However the references made are selective in the sense that the submission fails to consider the different type of evidence the FtTJ was referring to and the content of that evidence in those two particular paragraphs.

43. At [22] the judge considered letters from two named individuals (not elders or committee members of the AMA) and the judge identified the lack of detail in that evidence and apparent inconsistencies. The FtTJ set out that in relation to Mr M he said that he knew the appellant to be an Ahmadi and had recent threats but gave no further detail. In relation to Mr A (author of the second letter) he set out that he first met the appellant in the mosque but as the FtTJ observed whilst the author of the letter stated that he had known the appellant for two years, the date given was less than two years before the letter. The judge did refer to a letter "apparently from the AMA" and reference is made to the appellant having entered the community by filling in the initiation form, but the judge observed that in relation to the evidence, no copy of the form had been provided and in respect of two of the letters, no identity documents from the claimed writers had been exhibited. Therefore the judge identified matters which affected the weight attached to such evidence.

44. The judge then went on to make reference to the witness evidence from Mr M and Mr A (the letters) stating at [22]:

> "despite the comments of Judge Morris on the point none of the writers attended to give oral evidence, nor indeed did anyone else from the mosque or from any Ahmadi events attended."

It is plain that the judge is expressly referring to the previous decision of Judge Morris who had found that the appellant had not provided any cogent evidence in support of his claimed conversion. At that

stage, the appellant had given an explanation for the lack of evidence that they would not issue documents confirming conversion until someone had been a member of the community for two years. At [31] Judge Morris stated "as accepted by Mr Sedgwick (respondent's counsel), this would appear to be a sensible stance on behalf of the authorities. However, that would not prevent the appellant from producing evidence from individuals who are aware of his conversion, his attendance at the mosque and his activities as an Ahmadi. The appellant produced no witnesses at the hearing to provide such evidence and the only evidence before me as a document which purports to be a statement of Mr A…".

45. It is plain in my judgement that Judge Morris here was distinguishing between evidence that could be given by way of verification by the AMA and that which could be given by other individuals who knew the appellant.

46. It is also correct to note that at [31] Judge Morris went on to consider the evidence that the appellant had provided but highlighted not only the lack of attendance but the inconsistencies in the evidence that had been provided.

47. Returning to the present appeal, it is equally plain in my view that Judge White referred to the previous finding made on the basis that the same circumstances had occurred in the present appeal before him. Judge White then proceeded to consider the appellant's explanation for the lack of non-attendance stating as follows:

> "the letters did not explain why they did not attend. The appellant told me that they were not here because Jamaat would not allow them to give evidence. No evidence of any such policy or ruling was provided. If it exists, it did not prevent them from giving written evidence. I am not persuaded that such a bar exists, still less that it would prevent anyone from attending to confirm that they know the appellant and have seen in the mosque or preaching in the streets."

48. In my judgement, the FtTJ was not referring to any policy on the part of the AMA UK but was directly referring to the general evidence given by witnesses who knew the appellant as an Ahmadi by his conduct, being seen at the mosque or preaching in the streets. As the FtTJ correctly stated, there had been no evidence of any policy from the AMA UK which referred to others who knew the appellant and could give general evidence about his conduct to be prohibited from giving such evidence.

49. The policy on the part of the AMA UK and its process of verification is set out in Annex B of the CPIN dated May 2019 (that was before the FtTJ). It does not refer to general witness evidence given by those who know the appellant but refers to the type of evidence that the AMA UK could provide by way of verification/support.

50. Furthermore, as the FtTJ correctly observed if such a policy/ruling did exist (in respect of that general evidence), such a ruling had not prevented the two witnesses giving written evidence in the form of letters as set out at [22]. Therefore the judge was not inconsistent when he stated, “I am not persuaded that such a bar exists, still less that it would prevent anyone from attending to confirm that they know the appellant and have seen that the mosque or preaching in the streets.”

51. There is therefore no error on the basis of any inconsistency in paragraph [22]. In my view, the ground fundamentally misunderstands the nature of the evidence the judge was considering at paragraph [22].

52. Turning to paragraph [23], the FtTJ was plainly referring to the policy of the AMA UK itself (as opposed to the general witness evidence). This is set out in the decision letter at paragraph 23 and also at Annex B of the CPIN exhibited in the respondent’s bundle where it is stated at paragraph 15 “ in the case of applicants who have joined the association by doing a ba’iat in the UK, the Association shall only confirm that the applicant join the association as a member two years after the ba’iat and may set out a report about the applicant’s attachment to the Association after the second anniversary of that applicants joining as a member.” It is in the context of that evidence the judge noted that despite the period of two years not having elapsed, two letters from the AMA UK had been provided.

53. The FtTJ made two findings about that evidence. Firstly, there had been no explanation as to why those letters have been provided in contravention of that stated policy or position adopted and secondly, as a result of the lack of detail, they were so lacking in factual information concerning his activities and conversion that little or no weight could be attached to them. This is consistent with the decision of *AB (Ahmadiyya Association UK: letters) Pakistan* [2013] UKUT 511, where the Upper Tribunal concluded that in deciding a claim for international protection based on a person’s Ahmadi faith where credibility is an issue, the more specific information a letter from the AMA UK contains, as to the persons activities in the United Kingdom, the more likely the letter is to be given weight (see paragraph 44 of that decision).

54. In my judgement the ground fundamentally fails to take into account the different type of evidence the judge was considering at paragraphs [22] and [23]. In my view, the judge properly considered the evidence provided in the form of such statements but found it to be either lacking in detail, lacking in support and no reasonable explanation for the failure to call relevant witness evidence and

inconsistencies in its content. Therefore I am not satisfied there is any error on the basis as advanced on the grounds.

55. I also satisfied that the respondent is correct in her written submissions to state that the evidence at paragraphs [22] – [23] was not the only evidence considered by the FtTJ when reaching his conclusion at [30] that the appellant was not a genuine Ahmadi convert but formed part of that holistic assessment of the evidence.

Ground 1:

56. It is submitted on behalf of the appellant that the FtTJ may have misstated or misunderstood parts of the appellant's oral evidence. The grounds identify three areas.

57. The directions given by the tribunal required the parties to provide copies of their record of proceedings. The appellant's counsel has provided this however the respondent was not able to provide a copy as the paper file has not been accessible due to COVID 19. However there is a short extract from the presenting officers note. As to the judge's ROP I provided a typed copy to the parties at the hearing which both parties had the opportunity to read and consider. Mr Corben on behalf of the appellant confirmed that he did not require any further time or a copy of the handwritten notes and was content to proceed in his submissions.

58. Dealing with the first point raised from the evidence, it is submitted that at paragraph [18] the FtTJ recorded that the appellant said that he did not know of the differences between Sunni and Shia Muslims and that the judge considered that this was "difficult to credit" and thus was a point taken against the appellant.

59. The grounds cite counsel's note of the evidence as follows:

> Q; before visiting the mosque, were you aware of the existence of Ahmadi's as a sect?
> A: no
> Q: were you aware of other different sects in Islam… Sunni and Shia?
> A; yes
> Q; were you aware it was sometimes the cause of considerable difficulty?
> A; yes

60. Thus the ground asserts that the appellant had not claimed that he had any such ignorance. The FtTJ's ROP does not reflect the same exchange. The issue arose in the evidence as a result of the questions asked by the judge and it is recorded as follows:

> "IJ

didn't know about existence of Ahmadi's before.
I didn't know of difficulty between sects the Sunni and Shia.
I knew of this 14-year prophecy… ".

61. Mr Corben acknowledged that the note of counsel appeared to be different from that set out in the ROP but that having a handwritten note would not assist. I take into account the submission made by Mr Corben that as the judge would have been asking the questions, he would have recorded the answers after they have been given rather than counsel who would be taking the note contemporaneously. However, given the circumstances, even if Counsel's note is correct, the issue is whether such a difference in the evidence is material. Mr Corben submitted that the grounds raised three points from the evidence and that he accepted a finding on any individual point would not be sufficient in itself to cause the decision to be subject to sufficient criticism as there were other aspects of the decision that weighed against the appellant. However if it could be said that there were a collection of errors the combination of them would tip the scales in favour of the appellant.

62. I have also considered the second issue raised in respect of paragraph 18. It is submitted that the judge erred by misrepresenting the appellant's oral evidence as to when he first became aware that converting to the Ahmadi faith might put him at risk in Pakistan. The grounds concede that this was a major issue in the previous appeal but that the appellant was consistent before this FtTJ and records counsels note in support. It is submitted that the appellant's evidence was clear-that he had not initially known about the treatment of Ahmadis in Pakistan until a day or so after his conversion on 23 October 2017 when his aunt and uncle discovered him reading Ahmadi books and told his family. It was then upon receipt of threats from his family that the appellant was aware that Ahmadi's were at risk. It is therefore submitted that the judge did not fairly portray the evidence and it was unfair to maintain that the appellant was still confused.

63. I have carefully considered the points raised in relation to paragraph [18] of the decision. In respect of the first point raised, I am satisfied that even if the judge's note is incorrect, it was of no materiality. By placing emphasis on extracts of the evidence the submissions fail to consider the full context of the material the FtTJ was considering. As the respondent submits, the extracts set out in the grounds are a selective part of the overall evidence. The key issue the judge was considering was not the difference between Sunni and Shia but the appellant's apparent ignorance of the Ahmadi sect and risks to them. This is clearly illustrated by careful reading of paragraph [18]. In that paragraph the judge was addressing the evidence concerning the appellant's claimed conversion to the Ahmadi faith. At [17] the judge set out the previous adverse findings made by Judge Morris in 2018

based on the evidence that he had given before the tribunal which was found to be both inconsistent and not credible. The FtTJ noting that he was revisiting the issue of the appellant's conversion. Thereafter at paragraphs [18]-[21] the FtTJ considered the appellant's evidence concerning his conversion. I observe that the grounds only make reference to paragraphs [18] and [19].

64. At paragraph [18]-[19] the FtTJ stated as follows:

"18. He was asked some questions about his conversion. He said this happened on 23 October 2017. About a month before he had gone into a mosque at prayer time, where he met [NB], who began preaching to him, having established that the appellant was not an Ahmadi. The appellant says before he did not realise that there were different sects of Muslims or know how Ahmadi's were treated. In answer to me he said that he did not even know of the existence of Ahmadi's before this, or of the existence of differences and difficulties between Sunni and Shia Muslims. I am bound to say that I find this claim to extensive ignorance about is them difficult to credit. I further note in this regard that he told me that he did not know how Ahmadi's were treated until he got threats of his family, including his uncle: that on his account was in late October or early November. Judge Morris's decision includes a detailed discussion of when the appellant realised that he would be at risk as an Ahmadi. He told her that he realised he could claim asylum when he converted, in December 2017. That would seem to make no sense, since he had already claimed, and is clearly different from what he told me. In the course of the discussion before judge Morris his counsel (not Mr Georget) referred to evidence that he was told a fatwa had been issued in October 2017. That would be almost immediately upon his conversion. His present witness statement refers to a fatwa, without saying when he became aware of it, and the documents submitted include what is said to be a fatwa, but that is dated 1 February 2019. There is thus considerable continuing confusion over when he became aware that he would be at risk, and indeed how he became so aware, if he was indeed wholly unaware of the treatment of Ahmadi's before his conversion.

19. In his evidence before judge Morris the appellant also referred to going into an Ahmadi mosque to pray as the start of his conversion process. He also told her that he hardly ever went to Friday prayers, or to the mosque: the only reason he gave me the going in this because it was time for prayer, which seems odd if he was not normally troubled. I do not know what further details he gave judge Morris of the procedure, but he explained that the main reason for conversion was at the Ahmadi's offered prayers, not jihad. He told me that on the first occasion he and NB talked for two hours, during which he was asked whether he knew what the Prophet had said about someone coming after him. This was a reference to the prophecy of the coming of the Mahdi after 14 years, a prophecy of which the appellant told me he was aware. He went back the following day asking Mr B to show him the proof. Mr B shown in some books. After that the appellant was going back every 2 to 3 days for further talks, before his eventual conversion. In answer to me he said that when Mr B shown in the book he realised that he must believe. Seems to be a different explanation for the decision to convert from that given to judge Morris. Why the site of an unidentified book containing a prophecy said to have been made many many years ago, on

only his second visit to this mask, should persuade a man who until then had not been particularly religious that Ahmadi's and was the true faith I struggle to understand. "

65. As can be seen from paragraph [18] the FtTJ was not placing adverse weight solely on the issue of whether the appellant knew the existence of differences between Sunni and Shia Muslims but that the judge was considering the general knowledge concerning the Muslim faith relevant his conversion : "The appellant says that before that he did not realise that there would different sects of Muslims or knew how Ahmadi's were treated. In answer to me he said he did not know the existence of Ahmadi's before this or as to the existence of difficulties in differences between Sunni and Shia Muslims."

66. It was in this context that the FtTJ found that his ignorance about Islam was "difficult to credit". The judge was therefore not solely considering his answer concerning differences between the Sunni and Shia sects but his claim that he did not even know about the existence of Ahmadi Muslims who, in the objective material was well documented to be a section of society subject to discrimination and persecution in Pakistan.

67. Furthermore, the judge did not end his consideration there and in the next part of the paragraph states:

"I further note in this regard that he told me that he did not know how Ahmadi's were treated until he got threats from his family, including his uncle: in his account that's in late October or early November. Judge Morris's decision includes a detailed discussion of when the appellant realised that he would be at risk as an Ahmadi. He told her that he realised he could claim asylum when he converted, in December 2017. That would seem to make no sense, since he had already claimed, and is clearly different from what he told me. In the course of the discussion before judge Morris his counsel (not Mr Georget) referred to evidence that he was told a fatwa had been issued in October 2017. That would be almost immediately upon his conversion. His present witness statement refers to a fatwa, without saying when he became aware of it, and the documents submitted include what is said to be a fatwa, but that is dated 1 February 2019 . There is thus considerable continuing confusion over when he became aware that he would be at risk, and indeed how he became so aware, if he was indeed wholly unaware of the treatment of Ahmadi's before his conversion".

68. The grounds assert as a second point that there was no confusion about when he was first aware of the risk to Ahmadi's because of the reaction of his family members. However on a careful reading of paragraph 18 are set out above, the judge correctly noted and took into account the appellant's evidence that " he told me that he did not know how Ahmadi's were treated until he got threats from his family, including his uncle: in his account that's in late October or early November" (see paragraph 19 above). In my judgement there is no unfairness or misrepresentation of the evidence. What then followed was the judge

setting out the inconsistencies between the evidence he gave previously on the evidence given before judge White but also in the context of the evidence as a whole.

69. The FtTJ stated that in the previous decision Judge Morris included a detailed discussion of when the appellant realised that he would be at risk as an Ahmadi (as set out in the previous decision at paragraph [33]). The judge recorded that "he told her (referring to judge Morris) that he realised he could claim asylum when he converted in December 2017. That would seem to make no sense since he had already claimed, and it is clearly different from what he told me."

70. Here the FtTJ was referring to the previous account given by the appellant that he realised that he would be at risk when he claimed asylum which was in December 2017. However, as the judge found, "that would make no sense because he had made a claim (asylum) in November 2017. The judge was therefore identifying an inconsistency in his evidence. The judge also identified that the evidence of the date of conversion was different from the evidence that the appellant had given before him which was that in late October/early November (following threats from his family). The judge considered this in the context of the other evidence provided by the appellant and in particular the fatwa. As the judge noted, the previous evidence was that the fatwa had been issued in October 2017 which as the judge observed on the chronology now provided "would be almost immediately upon his conversion." The judge then contrasted that evidence with evidence in his present witness statement, he did not say when he became aware of the fatwa but made reference to the fatwa on the document in support was dated 1 February 2019 (not the earlier date referred to). It was against this evidential background that the FtTJ made the finding "there is thus considerable and continuing confusion over when he became aware that he would be at risk, and indeed how we became so aware, if he was indeed wholly unaware of the treatment of Ahmadi's before his conversion."

71. In my judgement it is important to consider paragraph [18] in its entirety and in its evidential context. The grounds are selective in the parts of the evidence relied on when reading the evidence is a whole. In my view a careful reading demonstrates the judge did not misunderstand the evidence but was seeking to underscore and demonstrate the inconsistencies in his evidence and did so by reference to the earlier account and the evidence was before him. As the judge recorded at [21] the account given before the present tribunal gave an account which was not consistent when considering the dates. The explanation that he had given for giving inconsistent dates at the first of appeal was that he got confused about the 10th and 11 months despite speaking good English. The judge observed that that was an explanation rejected by judge Morris but that "the point was not further explored before me." Contrary to the grounds,

the judge did not misstate or misunderstand the evidence when reaching the conclusion that there had been a "continuing and considerable confusion" in the appellant's account at [18] as this was demonstrated in the FtTJ's analysis.

72. The third point relied upon refers to paragraph [19] and that the FtTJ misunderstood the evidence which records the FtTJ as saying "whilst Mr B showed him the book he realised he must believe.". The grounds go on to say "the tribunal then goes on to express great scepticism that the mere sight of a book should persuade the appellant, who had not been particularly religious to the point, to convert the Ahmadi faith. The grounds go on to cite Counsel's note:

"Q; what was it that persuaded you that this was so serious that you wanted to follow it…
A: it was the books. Once I read and found out I believed. I accepted I was wrong."

73. It is therefore asserted that the judge's finding that it was the "mere" sight of an unidentified book was incorrect and that the appellant's evidence was that he went away and read the book and it was that which persuaded him to convert.

74. The full note provided by counsel states:

You were aware of the prophecy and believed it hadn't happened? It was the books. Once I read and found out I believed. I accepted I was wrong. To be a good Muslim you have to believe."

75. Having read the grounds in the context of the entirety of paragraph [19] I am satisfied that the judge did not misunderstand or misstate the evidence or that there was any confusion on the part of the FtTJ. At [19] the judge set out further evidence relating to the conversion. The judge began by noting the evidence that previously before judge Morris and recorded in that decision that he had said that he had gone into an Ahmadi mosque to pray at the start of his conversion process. The judge records "he also told her that he hardly ever went to Friday prayers, or to the mosque: the only reason they gave me for going in was because it was time for prayer, which seems odd if he were not normally troubled." The judge then set out the main reason for conversion was that "Ahmadi's offer prayers not jihad". The judge then went on to consider the evidence that he had given before the tribunal as follows "he told me that on the first occasion he and NB talk for two hours during which he was asked whether he knew what the Prophet had said about someone coming after him. This was a reference to the prophecy of the coming of the Mahdi after 14 years, a prophecy of which the appellant told me he was aware. He went back the following day asking Mr B to show him the proof. Mr B shown in some books. After that the appellant was going back every 2 to 3

days for further talks, before his eventual conversion. In answer to me he said that when Mr B shown in the book he realised that he must believe. This seems to be a different explanation for the decision to convert from that given to Judge Morris. Why the site of an unidentified book containing a prophecy said to have been made many years ago, on only his second visit to this mosque, should persuade a man who until then had not been particularly religious that Ahmadism was the true faith I struggle to understand. "

76. It is plain from reading paragraph [19] in its entirety to the judge did not misunderstand the appellant's evidence that when he read the book he had believed but had identified a different explanation for converting to the Ahmadi faith. On the evidence before the FtTJ, his explanation was different from the previous account given and the present judge was entitled to consider this as the appellant giving inconsistent evidence. Furthermore, the grounds do not make any reference to paragraphs 20 and 21 of the decision where judge set other inconsistent evidence given by the appellant, for example at [21] where the judge set out the differences between the appellant's account in his asylum interview and other evidence.

77. In my judgement, the FtTJ's decision should not be read by reference to specific paragraphs alone but by reading the decision as a whole. The judge was required to consider whether the appellant was a credible Ahmadi convert and this included considering his conversion, and evidence in support of his claimed conversion and his activities before reaching an overall decision. After carrying out a careful analysis of the evidence, which included consideration of previous evidence given, both the asylum interview and the evidence given before judge Morris, and the documentary evidence advanced on his behalf, alongside his fresh evidence, the judge set out at [30] "I have considered all of this evidence with care and in the round. In the light of the various matters discussed above, including the absence of any clear and consistent chronology of or explanation of his claimed conversion and the lack of any genuinely independent and testable confirmation of what he says I am satisfied that the appellant is a witness of no credibility. For reasons which include those given by Judge Morris but also encompass new material provided I reach the same conclusion, that the appellant is not a genuine Ahmadi convert, that his asylum claims is a fabrication and that he is not at risk on return."

78. In my judgement the FtTJ carried out a careful consideration of the evidence in the round and reached overall conclusions that were open to him. The grounds amount to nothing more than a disagreement with that evidence that I am satisfied that there is no material error of law in the way the grounds assert.

79. For the reasons given above, I am satisfied that the decision of the FtTJ did not make an error on a point of law and the decision of the FtT stands. The appeal is dismissed.

Notice of Decision.

80. The decision of the First-tier Tribunal did not involve the making of an error on a point of law and therefore the decision of the FtT stands.

Signed Upper Tribunal Judge Reeds

Dated 8 March 2021

I make a direction regarding anonymity under Rule 14 of the Tribunal Procedure (Upper Tribunal Rules) Rules 2008 as the proceedings relate to the circumstances of a protection claim. Unless and until a Tribunal or court directs otherwise the appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify him. This direction applies both to the appellant and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.

NOTIFICATION OF APPEAL RIGHTS

1. A person seeking permission to appeal against this decision must make a written application to the Upper Tribunal. Any such application must be received by the Upper Tribunal within the appropriate period after this decision was sent to the person making the application. The appropriate period varies, as follows, according to the location of the individual and the way in which the Upper Tribunal's decision was sent:

2. Where the person who appealed to the First-tier Tribunal is in the United Kingdom at the time that the application for permission to appeal is made, and is not in detention under the Immigration Acts, the appropriate period is 12 working days (10 working days if the notice of decision is sent electronically).

3. Where the person making the application is in detention under the Immigration Acts, the appropriate period is 7 working days (5 working days if the notice of decision is sent electronically).

4. Where the person who appealed to the First-tier Tribunal is outside the United Kingdom at the time that the application for permission to appeal is made, the appropriate period is 38 days (10 working days if the notice of decision is sent electronically).

5. A "working day" means any day except a Saturday or a Sunday, Christmas Day, Good Friday, or a bank holiday.

6. The date when the decision is "sent' is that appearing on the covering letter or covering email.