



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

**Appeal No: UI-2021-001699
(PA/50502/2021); IA/10672/2021**

THE IMMIGRATION ACTS

**Heard at Bradford IAC
On the 2nd December 2022**

**Decision & Reasons Promulgated
On the 3rd January 2023**

Before

UPPER TRIBUNAL JUDGE BRUCE

Between

**PRM + 4
(anonymity direction made)**

Appellant

And

Secretary of State for the Home Department

Respondent

For the Appellant: Ms Brakaj, Iris Law Firm

For the Respondent: Ms Young, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The Appellant is a national of Iraq born in 1982. He and his four dependent family members seek protection on the grounds that they face a real risk of serious harm and/or persecution for reasons of their religion/membership of a particular social group in Iraq. The basis of the claim is that the Appellant has converted from Islam to Zoroastrianism, and that as a result his wife's Muslim family wish to see the marriage end, and do him harm. The family also feared religious extremists. The claim was rejected for want of credibility by the Respondent on the 1st February 2021 and in a decision dated the

21st September 2022 Judge Ali of the First-tier Tribunal agreed, dismissing the appeal.

2. The Appellant was granted permission to appeal against Judge Ali's decision on the 6th July 2022 by Upper Tribunal Judge Blundell.

Errors of Law

3. The principal error in the decision of the First-tier Tribunal is, as Ms Young candidly and sensibly acknowledged, that the decision does not anywhere address the Appellant's actual evidence. Much is said about the documents he adduced in support of his claim, but that is only half of the *Tanveer Ahmed* assessment. It was still incumbent on the judge to evaluate the claimant's evidence; after all, a claim for asylum can be made out without reference to any documents at all.
4. The second error is that in its close evaluation of the documentary evidence, from which it drew such profound adverse inference, the Tribunal mischaracterises matters as discrepancies which are not in truth discrepancies at all. For instance at its paragraph the Tribunal says this:

36. The Appellant has provided a letter from the Kurdistan Zoroastrian Culture and Philosophy Organisation (page D4 of RB). The letter is not an original but a copy. Ms Telford confirmed at the onset of the hearing that the documents which the Appellant had submitted to the Home Office (Annex D of RB) were all copies and the Appellant did not have the originals. In reference to the letter it was issued by a person called Mr Youssef Ahmed Ali, however the author has failed to provide any photographic ID to confirm who they actually are. In addition to this the Appellant states that he converted to the religion around March 2017 and yet I find that this is inconsistent with the date noted in the letter issued by Mr Ali which confirms that the Appellant has been involved with them since 1st June 2017. The Appellant has also provide an ID card from the Kurdistan Zoroastrian Culture and Philosophy Organisation (D22 of RB). The ID card is not an original but a copy. The ID card is valid from the 15.06.2017 which is inconsistent with the letter issued by the same organisation which states he has been involved with them since 1st June 2017. Further the author of the letter (D4 of RB) makes no reference to the Appellant being issued with an ID card and the copy of the ID card appears to have an ID number of 92, whereas there is no ID number on the letter. There is a number 121 on the letter but there is no explanation of what this is in reference to or if this is the Appellants member/ID number. If it was the case that the number 121 was indeed a member/ID number then this would appear inconsistent with the ID number of 92 on the ID card. It is for those reasons that I attach little weight to the photographs, letters and ID as referred to above.

5. Neither of the reasons given in this paragraph for giving only little weight to the documents make sense. The three dates that are given

are found in their 'inconsistency' to reveal some dishonesty on the part of the Appellant but they are simply reflective of a natural chronology. The Appellant considered himself to have converted to Zoroastrianism in March of 2017, by the 1st June of that year he had first attended the cultural centre and a couple of weeks later in the middle of June that organisation issued him with a membership card. Where is the inconsistency in that? As for the apparent inconsistency arising as to his ID number, as the Judge acknowledges, he does not know what the number 121 on the letter referred to. It is not in those circumstances fair to draw adverse inference from it.

6. In the circumstances nothing can be retrieved from this decision which must be set aside in its entirety.

Anonymity

7. The Appellant continues to seek protection. Having had regard to the applicable guidance I consider that at least until such time as his claim is finally determined he should have the benefit of the following order for anonymity:

“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, any of his witnesses or any member of his family. This direction applies to, amongst others, both the Appellant and the Respondent. Failure to comply with this direction could lead to contempt of court proceedings”

Decisions

8. The decision of the First-tier Tribunal is set aside.
9. The decision in the appeal is to be remade by a Judge of the First-tier Tribunal by a Judge other than Judge Ali. It is to be heard in Newcastle and a Kurdish Sorani interpreter should be provided.
10. The Appellant's country background bundle is now somewhat out of date. Ms Brakaj indicated that she will look to update it prior to the new hearing, and permission is granted for that material to be served and filed.
11. There is an order for anonymity.



Upper Tribunal Judge Bruce

2nd

December 2022