



**IN THE UPPER TRIBUNAL**  
**IMMIGRATION AND ASYLUM**  
**CHAMBER**

**Case No: UI-2023-001068**  
**First-tier Tribunal Nos:**  
**HU/53497/2021**  
**LH/00070/2023**

**THE IMMIGRATION ACTS**

**Decision & Reasons Issued:**  
**On the 09 July 2023**

**Before**

**UPPER TRIBUNAL JUDGE NORTON-TAYLOR**

**Between**

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

Appellant

**and**

**AN**

**(ANONYMITY ORDER MADE)**

Respondent

**Representation:**

For the Appellant: Ms S Lecointe, Senior Home Office Presenting Officer

For the Respondent: Mr A Uddin, Counsel, instructed by marks and Marks Solicitors

**Heard at Field House on 22 June 2023**

**Order Regarding Anonymity**

**Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, Mr AN is granted anonymity.**

**No-one shall publish or reveal any information, including the name or address of the appellant, likely to lead members of the public to identify Mr AN. Failure to comply with this order could amount to a contempt of court.**

**DECISION AND REASONS**

## **Introduction**

1. The Secretary of State (hereafter “the Respondent”, as she was before the First-tier Tribunal) appeals with permission against the decision of First-tier Tribunal Judge Farmer (“the judge”), by which she allowed Mr AN’s (hereafter “the Appellant”) appeal against the Respondent’s refusal of his protection and human rights claims.
2. The protection claim had two aspects to it: firstly, that he had taken part in a demonstration whilst still in Iran and was at risk for that reason, combined with a risk contingent on *sur place* activities in the United Kingdom; secondly, that he had genuinely converted to Christianity and this would place him at risk in any event.
3. The appeal before the judge was not the Appellant’s first. A previous appeal had been dismissed at some point in the second half of 2019 by First-tier Tribunal Judge Davies (“Judge Davies”). At that time the Appellant’s claim was based solely on claimed political activities and attendance at a demonstration in Iran. Judge Davies disbelieved the Appellant and found there to be no risk.

## **The judge’s decision**

4. In brief summary, the judge concluded that the Appellant had not been truthful about claimed events in Iran and their consequences, nor in respect of the claimed *sur place* activities. However, she did accept that the Appellant had genuinely converted to Christianity. The Respondent had expressly conceded that if this fact were established it was accepted that the Appellant would be at risk on return to Iran. The appeal was allowed on that particular basis.

## **The grounds of appeal and grant of permission**

5. The Respondent applied for permission to the First-tier Tribunal. Firstly, it was asserted that the judge had placed “considerable weight” on a letter from a pastor from the church but that individual had not attended the hearing. The letter itself was said to lack detail. In those circumstances and citing the old and unreported decision in Dorodian (01/TH/1537), the

grounds asserted that the pastor's letter "should have been given no weight". Secondly, it was said the judge had "artificially" separated the evidence provided by the Appellant rather than considering it in the round. Thirdly, it was said that the judge should have considered the Appellant's credibility in light of the findings from Judge Davies in 2019.

6. Permission to appeal was refused by the First-tier Tribunal and the Respondent renewed her application. In addition to the original grounds of appeal, the renewed grounds reiterated the absence of the pastor at the hearing but also stated in terms that the Appellant's partner had not attended the hearing and the judge had effectively erred by placing weight on her evidence in those circumstances.
7. Permission was granted by an Upper Tribunal Judge.

### **The hearing**

8. Ms Lecointe relied on both sets of grounds of appeal and had nothing further to add.
9. Mr Uddin informed me that in fact the Appellant's partner had attended the hearing before the judge and had been questioned. The Respondent's renewed grounds of appeal were therefore misleading. In respect of the matters set out in the original grounds of appeal, Mr Uddin submitted that the judge had taken all relevant matters into account and left none out of account. She had clearly considered the evidence in the round and had given proper consideration of Judge Davies' adverse findings together with her own.
10. At the end of the hearing I announced to the parties my conclusion that the judge had not materially erred in law.

### **Reasons**

11. I remind myself of the need to exercise appropriate restraint before interfering with a decision of a First-tier Tribunal Judge, particularly when they have read and heard evidence from a variety of sources, have evaluated that evidence, and have set out relevant findings of fact.

12. In the present case, I am entirely satisfied the judge has, as submitted by Mr Uddin, taken relevant matters into account and left none out of account. The judge correctly directed herself to the Devaseelan principles: [13]. At numerous stages in her decision she referred to Judge Davies' findings from 2019: for example, [3], [13], [20], [21] and [52]. It is clear to me that the judge not only had these adverse findings firmly in mind but applied them appropriately in the context of the Devaseelan principles. She was entitled to find that the issue of conversion had not been raised previously, as the Appellant's claim was that this journey had occurred after 2019. The judge was also entitled to conclude that Judge Davies had not found anything in his decision which was positively inconsistent with the Appellant's claimed conversion, contrary to a submission made by the Presenting Officer: [52].
13. Further, I am satisfied that the judge had the general nature of the adverse findings made by Judge Davies in mind when assessing the evidence before her as a whole. She stated both at the beginning and the end of her section on findings that she had considered the evidence "in the round". There is no reason to indicate that the judge did not do precisely what she said she would do on two separate occasions within her decision. This significantly undermines the arguments raised in the original grounds of appeal relating to an alleged failure to have considered the evidence holistically.
14. The absence of the pastor at the hearing does not of itself disclose a material error of law on the judge's part. She was entitled to, and did, take the evidence before her in the round (indeed, such an approach was precisely what the respondent asserted in the grounds of appeal that she was bound to do). That evidence included a letter which, despite the criticism made in the grounds, was one in respect of which the judge was entitled to describe as including a "ringing endorsement" of the Appellant and his claimed faith. The judge did not state that the pastor's letter was decisive - she said in terms that she was placing "some weight" on it: [53]. Clearly, it was an aspect of the evidence which had been

considered holistically. The decision in Dorodian cannot be considered as an evidential or legal straitjacket to the effect that the absence of a church witness will, *in and of itself*, render any written evidence from a church member unreliable and incapable of carrying any weight. As is made clear in the case law over time, conversion cases call for a careful consideration of all relevant evidence: see, for example, MH (review; slip rule; church witnesses) Iran [2020] UKUT 00125 (IAC).

15. The judge specifically took account of her own adverse credibility findings in respect of the first element of the Appellant's claim when considering the conversion element: [51] and [52]. The judge took account of the Appellant's own evidence, which had been duly tested under cross-examination. The evidence provided was given weight by the judge and that was open to her. The judge was also entitled to place "some weight" on the Appellant's partner's evidence. Contrary to the misleading renewed grounds of appeal, I am satisfied that the partner had attended the hearing and had given oral evidence.
16. The reasons provided by the judge for her findings are all legally adequate and the finding that the Appellant was a genuine convert was one which was rationally open to her. In light of the Respondent's express concession as to risk the judge was clearly entitled to go on and allow the appeal on the basis of her core findings of fact.
17. In light of the above, the Respondent's appeal to the Upper Tribunal is dismissed and the judge's decision shall stand. \_\_\_\_

### **Notice of Decision**

**The decision of the First-tier Tribunal did not involve the making of an error of law. That decision shall stand.**

**The appeal to the Upper Tribunal is dismissed.**

**H Norton-Taylor  
Judge of the Upper Tribunal**

Appeal Number: UI-2023-001068  
First-tier Tribunal Numbers: HU/53497/2021  
LH/00070/2023

**Immigration and Asylum Chamber**

**Dated: 3 July 2023**