



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

Appeal Number: AA/08450/2015

THE IMMIGRATION ACTS

Heard at : IAC Manchester

**Decision & Reasons
Promulgated**

On : 4 May 2016

On : 12 May 2016

Before

UPPER TRIBUNAL JUDGE KEBEDE

Between

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

HABIBOLLAH FARHADI

Respondent

Representation:

For the Appellant: Mr G Harrison, Senior Home Office Presenting Officer

For the Respondent: Ms G Patel, instructed by Halliday Reeves Law Firm

DETERMINATION AND REASONS

1. This is an appeal by the Secretary of State for the Home Department against the decision of the First-tier Tribunal allowing Mr Farhadi's appeal against the respondent's decision to refuse his asylum claim.

2. For the purposes of this decision, I shall refer to the Secretary of State as the respondent and Mr Farhadi as the appellant, reflecting their positions as they were in the appeal before the First-tier Tribunal.

3. The appellant is a citizen of Iran, born on 23 March 1972. He entered the United Kingdom clandestinely and was arrested as an illegal entrant on 22 November 2014. He claimed asylum the same day. His application was refused on 13 May 2015. The appellant appealed against that decision. His appeal was heard by the First-tier Tribunal on 4 November 2015 and allowed in a decision promulgated on 13 November 2015. The Secretary of State has been granted permission to appeal that decision.

The Appellant's Claim

4. The appellant claims to be at risk on return to Iran as a result of having converted from Islam to Christianity. He was introduced to Christianity by a friend, Hamed, four to five months before he left Iran and he attended a house church every week before and after converting. On 22 October 2014 the house church was raided, subsequent to which his house was raided and then the gym which he owned. When the authorities raided his house, they took his computer and other literature about Christianity. The security police went to his work the day after the raid and the day after that. The appellant travelled to a friend's house and subsequently left Iran. He attended church in the UK. He feared returning to Iran because of his conversion to Christianity.

5. The respondent did not accept the appellant's account of the raid on the house church or his conversion to Christianity. It was not accepted that he was a Christian. However even if he was, the respondent did not consider that he would be at risk on return to Iran because he would be deemed to be an ordinary convert and would not proselytise, in accordance with the guidance in SZ and JM (Christians - FS confirmed) Iran CG [2008] UKAIT 00082. It was not considered that he would be at risk on return on the basis of having exited Iran illegally, pursuant to SB (risk on return-illegal exit) Iran CG [2009] UKAIT 00053.

6. The appellant's appeal was heard by First-tier Tribunal Judge Foudy. Judge Foudy heard oral evidence from the appellant and from Reverend Alan Reeve, the lead pastor at the Branches Christian Fellowship church. The judge accepted the appellant's account of his conversion as genuine and credible and noted that he and his wife were baptised in the UK on 17 July 2015. The judge considered that the appellant would be considered as an apostate in Iran and would face persecution as such. She accordingly allowed the appellant's appeal on asylum and human rights grounds.

The Secretary of State's appeal

7. The respondent sought permission to appeal Judge Foudy's decision on the grounds that she had failed to make findings on the appellant's account of the raid on the house church which was relevant to the question of the genuineness of his conversion to Christianity; and that she had failed to

consider whether the appellant was an ordinary convert or an evangelist in line with the country guidance in SZ and JM.

8. Permission was granted on 27 November 2015 by First-tier Tribunal Judge Andrew on the second ground, having found that any error in regard to the first ground was immaterial.

9. At the hearing before me Mr Harrison relied on the grounds of appeal. Ms Patel reminded me that permission had only been granted on the second ground. She nevertheless made submissions on the first ground, submitting that the judge had set out the appellant's evidence in full and had clearly found his account of events in Iran to be credible. In any event her findings in that regard were immaterial as the relevant question was whether he had genuinely converted to Christianity. With regard to the second ground, Ms Patel submitted that the judge had had the country guidance in mind and had referred to it, but that it had been overtaken by the Home Office's own Country Information and Guidance of December 2014 which was before the judge and which made clear that all converts from Islam were considered to be at risk of persecution. In any event the evidence before the judge suggested that the appellant would wish to convert other people and proselytise in Iran as he had done in the UK and he would therefore fall within the country guidance case.

10. In response, Mr Harrison submitted that the first ground was made out, as the judge had failed to engage with the appellant's account of events in Iran which was relevant to his overall credibility. With regard to the second ground, however, he said that he would not take that any further.

11. I advised the parties that, in my view, there was no error of law in the judge's decision requiring that it be set aside. My reasons for so concluding are as follows.

Consideration and findings.

12. I am mindful of the fact that permission was granted on the second ground only, although I do not find myself in agreement with Judge Andrew's reasons for finding the first point to be immaterial. It seems to me that an adverse credibility finding about past events relating to conversion to Christianity is relevant and material to the consideration of whether or not the appellant's adherence to the Christian faith in the UK is genuine and was intended to be continued in Iran should the appellant return there. I have therefore considered Judge Foudy's findings in regard to past events in Iran.

13. I accept that the judge did not address in any detail the reasons given by the respondent for rejecting the appellant's account of events in Iran. I accept that she did not make detailed findings about the raid on the church and other events related to the appellant's conversion to Christianity and it certainly would have assisted if she had. Nevertheless I consider that, overall, there is adequate reasoning in her decision to justify it being upheld.

14. It is clear that the judge was fully aware of the appellant's account of events in Iran and she set those out at [10]. As Ms Patel submitted, the appellant had produced a detailed statement for the appeal and within that statement he responded in detail to the concerns expressed by the respondent in the refusal decision. The judge considered the statement at [10]. At [18] the judge confirmed that she had considered all the evidence before her. Within her findings in regard to the genuineness of the appellant's conversion to Christianity at [18] she addressed the respondent's concerns about the conversion process in Iran and accepted the appellant's account. It seems to me, therefore, and I am prepared to accept Ms Patel's submissions, that the judge clearly considered and accepted the appellant's account of events in Iran and did not simply ignore that part of his claim.

15. It is also relevant to note, as Ms Patel submitted, that the person who drafted the respondent's grounds indicated that they had not had access to the appeal documents. Accordingly that person was unaware of the evidence the judge had before her which had led her to make the positive findings that she did. It seems to me that the judge made clear that she had considered all the evidence, relating to the appellant's experiences in Iran as well as in the UK, and having done so was entitled to accept the appellant's account of events as true. For the reasons given she was entitled to conclude that he was a genuine convert to Christianity. I therefore find that the first ground has not been made out.

16. As regards the second ground, Mr Harrison did not take this further, once referred by Ms Patel to the Home Office Guidance.

17. Paragraph 1.4 of the Country Information and Guidance for December 2014 is a Policy Summary and states at the fourth bullet point:

"The rights of Muslims to change their religion is not recognised under Sharia law. The religious conversion of Muslims is illegal in Iran. Christians who have converted from Islam are at real risk of persecution in Iran, and a grant of asylum is likely to be appropriate."

18. That guidance clearly post-dates the country guidance in SZ and JM, in regard to the distinction to be made between ordinary converts and those more actively involved including proselytisers and evangelists. The judge had the Home Office Guidance before her and was accordingly entitled to rely upon the Home Office's own policy regarding all converts. She was entitled to reach the conclusion that she did at [19], that the appellant would be seen as an apostate in Iran and would thus be at risk of persecution.

19. I therefore find no merit in the second ground of appeal.

20. For all of these reasons I find no errors of law in Judge Foudy's decision such as to require that it be set aside. I uphold her decision.

DECISION

21. The making of the decision of the First-tier Tribunal did not involve an error on a point of law. I do not set aside the decision. The Secretary of State's appeal is dismissed and the decision of the First-tier Tribunal to allow the appellant's appeal stands.

Signed
Upper Tribunal Judge Kebede