



**Upper Tribunal  
(Immigration and Asylum Chamber)  
PA/05181/2017**

**Appeal Number:**

**THE IMMIGRATION ACTS**

**Heard at Field House**

**On 7 March 2018**

**Decision &  
Promulgated  
On 18 April 2018**

**Reasons**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE GRIMES**

**Between**

**MR GM**

(ANONYMITY DIRECTION MADE)

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: Mr K Gayle, Elder Rahimi Solicitors

For the Respondent: Ms A Fijiwala, Home Office Presenting Officer

**DECISION AND REASONS**

1. The Appellant, a national of Iran, appealed to the First-tier Tribunal against a decision made by the Secretary of State of 18 May 2017 to refuse his application for asylum in the UK. First-tier Tribunal Judge Andonian dismissed the appeal in a decision promulgated on 20 July 2017. The Appellant now appeals to this Tribunal with permission granted by Upper Tribunal Judge Grubb on 19 December 2017.
2. The background to the Appellant's appeal is that he entered the UK on 12 January 2011 and claimed asylum based on his imputed political opinion on 19 January 2011. That application was refused and the appeal against it

was dismissed on 28 March 2011. His application for permission to appeal against that decision was refused and his appeal rights were exhausted in May 2011. He claims that he was baptised in 2013 and made further submissions to the Home Office based on his conversion to Christianity in 2014 and the Home Office refused to grant asylum on this basis in a decision dated 18 May 2017.

3. In considering the appeal the First-tier Tribunal Judge set out details of the Appellant's claim and his oral evidence. The judge made findings at paragraphs 7-33 of the decision. The judge found that the Appellant had not established that he has genuinely converted to Christianity or that he has a well-founded fear of persecution in Iran.

#### Error of law

4. The grounds of appeal take issue with a number of findings made by the First-tier Tribunal and contend that the analysis of the First-tier Tribunal Judge is fatally undermined by a failure to provide sufficient reasoning for adverse credibility findings and that he adopts the wrong standard of proof.
5. It is contended that the judge made an error in his adverse credibility finding at paragraph 7 of the decision where he found it not to be credible that the Appellant did not think that there was a translation for the Koran in Farsi. The judge said;

“That did not sound to be credible, and I take judicial notice that bibles and other spiritual books of all faiths are translated and it is reasonable to conclude (in the absence of evidence to the contrary,(the burden is on the appellant to discharge) (sic), in all languages, and it is simply not credible to say without more, that any Iranian speaking Farsi who is a Muslim would either not understand the Koran in Arabic or would not have been taught it in Arabic, or that he would not have been able to obtain a Farsi translation of it”
6. I agree that the judge has not explained the basis for his conclusions as to the availability of the Koran in Farsi in Iran or as to the teaching of the Koran in Arabic there.
7. It is further contended in the grounds of appeal that the judge based an adverse credibility finding on the absence of a baptism certificate from the Appellant's church. The judge notes the absence of a baptism certificate at paragraph 9 saying that he found it 'odd' that there was no baptism certificate and that no proper explanation was given about that. However at paragraph 11 he set out the evidence from the pastor from the Appellant's church that it is not the practice of the church to issue baptism certificates. Yet the judge went on to note again that he found it 'strange' that the church did not issue baptism certificates [12]. Ms Fijiwala submitted that, although the judge referred to the absence of a baptism certificate did not mean that he attached significant weight to this. However that is not clear from reading the decision where the judge referred to this matter on a number of occasions. In my view, in focussing

on the issue of the lack of a baptism certificate, the judge failed to properly engage with the evidence of the pastor.

8. A further error identified in the grounds of appeal is that the judge failed to give sustainable reasons for finding that the Appellant's wife accepts his conversion. At paragraph 18 the judge said that he found it 'difficult to believe' that the Appellant's wife and two children would like to be converted and that they are happy with the Appellant's conversion in light of the fact that his wife's father said that he would kill him if he went back to Iran. However in my view this is speculative and the judge has failed to give adequate reasons for this conclusion.
9. A further issue raised in the grounds of appeal relates to his solicitors submissions made after the asylum interview. The asylum interview was held on 12 January 2017. On 17 January 2017 his solicitors wrote to the Home Office to clarify a number of the answers given to questions asked. The letter stated that during the interview the Appellant felt under pressure and that he was upset when he realised that he had failed to provide correct responses where he knew the answers. The judge did not have to accept this explanation or the corrections. However at paragraph 27 he appeared to dismiss this letter saying that the Appellant said that he did not understand the interpreter. However it is not clear when the Appellant gave this explanation given that this is not what was said in the letter. Accordingly the judge failed to engage with the contents of the letter or to explain why he rejected the corrections made in the letter.
10. Whilst I accept that the judge has given other reasons for his conclusion that the Appellant's conversion is not credible, and it may be that only one or two of these errors may not have been fatal to the overall findings, I find that the cumulative effect of the lack of reasoning in relation to these key factors are sufficient to undermine the conclusions reached by the judge.
11. Accordingly I find that the judge made material errors in his consideration of the evidence.
12. In light of the Presidential Practice Statements I take into account that the effect of the error identified has been to deprive the Appellant of the opportunity for his case to be considered by the First-tier Tribunal and that the nature or extent of the judicial fact finding which is necessary for the decision in the appeal to be re-made is such that, having regard to the overriding objective in rule 2 of the Tribunal Procedure (Upper Tribunal) Rules 2008, it is appropriate to remit the case to the First-tier Tribunal.

### **Notice of Decision**

The decision of the First-tier Tribunal Judge contains material errors of law.

I set the decision of the First-tier Tribunal aside.

The appeal is remitted to the First-tier Tribunal for hearing afresh.

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

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 or any member of their family. This direction applies both to the Appellant and to the Respondent. Failure to comply with this direction could lead to contempt of court proceedings.

Signed

Date: 12 April 2018

Deputy Upper Tribunal Judge Grimes