



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

Appeal Number: RP/00135/2017

THE IMMIGRATION ACTS

Heard at Manchester Civil Justice Centre

On 29 March 2019

Decision & Reasons Promulgated

On 04 April 2019

Before

UPPER TRIBUNAL JUDGE PLIMMER

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

SA

(ANONYMITY DIRECTION MADE)

Respondent

Representation:

For the Appellant: Mr A McVeety, Senior Home Office Presenting Officer

For the Respondent: Mr N Stevens, Fadiga & Co

DECISION AND REASONS

Mr SA is a citizen of Saudi Arabia. I shall refer to him for convenience as the appellant. He has appealed against a decision of the SSHD (referred to as the respondent) dated 20 October 2017 to cease his refugee status because he claims that he continues to have a well-founded fear of persecution for reasons relating to his religion and his imputed political opinion.

In a decision sent on 12 February 2019, I found that the First-tier Tribunal (FtT) made an error of law insofar as it failed to adequately reason the conclusion that the appellant is a genuine convert from Islam to Christianity.

The FtT made a number of other findings, including that the appellant had voluntarily re-availed himself of the protection of Saudi Arabia when he returned there. I need not go into any detail about the other findings of fact made by the FtT because both parties now accept there only one straightforward issue in dispute: the genuineness of the appellant's conversion to Christianity.

Issues in dispute

Mr McVeety made it clear at the beginning of the hearing that if I accept that the appellant's conversion is genuine, the country background evidence is such that he is at risk of persecution. Mr McVeety also clarified that if I accept that the Saudi Arabian authorities were aware of the various online religious and political opinions that the appellant had articulated then he would also be at risk of persecution for that additional reason. I now remake the decision in relation to those two issues.

Background

The background to this matter is lengthy and complicated but it is helpfully set out in detail in the appellant's skeleton argument, drafted by Mr Stevens. I merely summarise the background here. The appellant converted to Christianity in 1998. He left Saudi Arabia in 2009 and claimed asylum in the UK. His appeal was allowed by the Tribunal, who found that the appellant was a genuine Christian. That Tribunal ('the 2010 Tribunal') noted that there were three witnesses who had spent time with the appellant and each had satisfied themselves that he was a genuine Christian convert. Reverend Skinner did not hesitate to baptise him. The 2010 Tribunal accepted all three witnesses had given truthful and reliable evidence and concluded that the appellant is a genuine convert to Christianity and would be at risk for that reason. As a result of this allowed appeal, the appellant was granted refugee status valid until May 2015.

The appellant, however, travelled to Saudi Arabia because his daughter was very ill indeed. The appellant is said to have travelled there shortly after obtaining his refugee status. Whilst in Saudi Arabia he obtained a new Saudi Arabian passport valid from 2012 to 2017. In July 2013, some two and a half years after leaving the United Kingdom ('UK'), the appellant returned via various European countries and claimed asylum once more in the UK. The appellant explained in his interviews why he had not claimed asylum in the other EU countries and why he had sought to lie about his Saudi Arabian passport. The appellant applied for settlement in April 2015, before

the expiry of his refugee status. There was various correspondence as to whether that refugee status should cease, which resulted in the decision that is under appeal.

As I have said, the matter then came before the FtT on 2 January 2018. Although the FtT made a number of adverse findings, it nonetheless allowed the appeal, having accepted the genuineness of the appellant's Christianity. As I have set out, I set that decision aside because of insufficient reasoning.

Hearing

At the hearing before me, Mr McVeety accepted that there were two narrow issues to be determined. I have set those out above. The appellant adopted his witness statements and gave evidence. He was very briefly cross-examined by Mr McVeety.

Dr Ibrahim also adopted his witness statements. In answer to my question clarifying his evidence, Dr Ibrahim explained that he did not regard the appellant to be a genuine Christian merely because he attended church and various Christian activities but because of his behaviour, in particular the way that he behaved when he was a regular attender of prayer meetings on a regular basis every Tuesday since 2013.

Mr McVeety did not cross-examine Dr Ibrahim. Mr McVeety made very brief submissions, during which he repeated that if I accepted the appellant to be a genuine Christian then the appeal would have to be allowed and it was a matter for me to decide whether or not he was genuine. Mr McVeety clarified that even if the online activities that the appellant had participated in whilst in the UK were not genuine, if I accepted the country background evidence to the effect that these activities would be monitored by the Saudi Arabian regime, then he was similarly at risk. After hearing from Mr McVeety indicated that I did not need to hear from Mr Stevens. This is because I accepted that the two issues in dispute should be resolved in the appellant's favour. Having had the opportunity to read all of the evidence in advance of the hearing including the evidence provided by both witnesses, the appellant and Dr Ibrahim, together with the evidence of online activities on the part of the appellant, and having considered all of that evidence in the round including the evidence from witnesses, and after hearing Mr McVeety's brief submissions, I reached the clear view that the appeal should be allowed. I now give my reasons for having made that decision.

Findings

The country background material is not in any serious dispute. It is contained within the appellant's bundle. It includes a U.S. State Department Report dated 29 May 2018, dealing with international religious freedom in Saudi Arabia. This states that the government

does not allow the public practice of any non-Muslim religion and criminalises anyone who challenges either directly or indirectly the religion or justice of the King or Crown Prince, and also criminalises any attempt to cast doubt on the fundamentals of Islam. The report goes on to say that since 2004, Saudi Arabia has been designated as a country of particular concern under the International Religious Freedom Act of 1998 for having engaged in or tolerated particularly severe violations of religious freedom.

The starting point for my factual findings must be the factual findings reached by the 2010 Tribunal, which accepted the appellant to be a genuine convert. Since that time, the appellant returned to Saudi Arabia, a country where he accepts he was unable to follow his religion because of a fear of persecution. The fact that the appellant returned to Saudi Arabia and voluntarily availed himself of the protection of the authorities there by obtaining a passport tells against the genuineness of his Christianity. However, he returned to the UK as long ago as 2013 and the evidence I have by which to assess the genuineness of his Christianity extends from 2013 to the present day – over five years.

I accept the appellant's own evidence that he is genuinely committed to Christianity. His evidence in his various statements is detailed and consistent with that which was said in his various interviews over time. He has explained why he made the difficult decision to return to Saudi Arabia and why he travelled through various countries before reaching the UK. Those explanations have not been seriously disputed before me.

The appellant has also explained that he does not simply attend church but is also active in other ways. He attends weekly prayer meetings. This has been confirmed and corroborated by Dr Ibrahim. He also attends Bible study evenings. He has provided evidence that he has been involved in leading Bible study in Arabic with the Trinity Community Church in Rusholme. The Trinity Community Church has provided evidence in the past supporting his activities with the church and there is also a printout from the Diocese of Manchester website confirming that the appellant leads the Bible study at the Holy Trinity Church.

Significantly, the appellant's evidence is supported by Dr Ibrahim. Dr Ibrahim has been the de factor leader of the appellant's Church for many years and is in a good position to assess the genuineness of the appellant's conversion. He has confirmed to me, and I accept, that his assessment of the genuineness of the appellant's Christianity is not just based upon his attendance at church but rather on what he has seen and witnessed himself. He gave clear and credible evidence that the appellant has been a regular attender of prayers on a Tuesday and his behaviour leads him to hold no doubt whatsoever that he is genuine.

I now turn to the appellant's online activities. These first of all support the appellant's claim not to be a supporter of the Saudi Arabian regime. They include the following. First, in the past year or so, he has been very vocal in his criticism of the Saudi regime in videos, particularly a video that was viewed over 227,000 times, in which he was querying and questioning the arrest and imprisonment of a human rights activist. In another video, which has 39,000 views, he demanded that the Saudi Crown Prince open a church in Saudi Arabia. He is identifiable and linked to these videos. He has explained in his witness statement that his motivation for campaigning in this way has been to try and demand rights for his Christian brothers and sisters. His online political activities are therefore linked and must be seen in the context of his Christianity. They support his claim to be a genuine Christian.

Even if I am wrong about that, in my judgment, the appellant is at risk by reason It is for all those reasons that I find that the appellant is indeed a genuine Christian notwithstanding his return to Saudi Arabia and of the doubts that that may give rise to. The U.S. State Department Report dated 13 March 2019 also makes it clear that the government engages in arbitrary or unlawful killings and is not tolerant of any religious or political dissent. of his sur place online activities. There can be no doubt that the Saudi Arabian authorities take a very dim view of those activities. The appellant's skeleton argument has referred to comprehensive evidence that supports the proposition that serious harm will come to those who are viewed adversely by the Saudi government either in the political or the religious sphere and that online activities are monitored very closely, see in particular the U.S. State Department Report from 2019 under the sections "Arbitrary or Unlawful Interference with Privacy, Home or Correspondence" and "Freedom of Expression". This evidence demonstrates that information posted online is monitored and gathered by the Saudi authorities and is used to justify arresting, charging and convicting dissidents under trumped up cyber-crime laws.

Conclusion

If removed to Saudi Arabia the appellant is unlikely to articulate his Christian religion or his anti-regime political views openly. However, the reason he will not do so is because of a well-founded fear of persecution. When the principles in HJ (Iran) [2010] UKSC 31 are applied to my factual findings I have no hesitation in concluding that this appellant faces a real risk of persecution for reasons relating to his religion or imputed political opinion.

Decision

I allow the appeal on asylum grounds.

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 his 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

UTJ Plimmer

3 April 2019

Upper Tribunal Judge Plimmer