



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: AA/03992/2013

THE IMMIGRATION ACTS

Heard at: Manchester
On: 4th September 2015

Decision & Reasons Promulgated
On: 15th September 2015

Before

DEPUTY UPPER TRIBUNAL JUDGE BRUCE

Between

Mr Keivan Mahmoudi
(no anonymity direction made)

Appellant

and

Secretary of State for the Home Department

Respondent

Representation:

For the Appellant: Ms Khan, Broudie, Jackson Canter Solicitors

For the Respondent: Mr Harrison, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The Appellant is a national of the Islamic Republic of Iran born in 1989. In March 2013 he came to the United Kingdom and claimed asylum, on the grounds that he had a well-founded fear of persecution in Iran for reasons of his political opinion. That claim was rejected by the Respondent and in a determination dated 4th September 2013 the First-tier Tribunal upheld that decision. Finding the Appellant's account not to be credible the Tribunal held that he did not have a well-founded fear of persecution in Iran for the reasons he had claimed.

2. In a written decision dated 4th September 2014 Deputy Upper Tribunal Judge Alis found that the First-tier Tribunal had erred in failing to make findings on a discrete point, whether the Appellant would be at risk of serious harm upon return to Iran. The argument had been made that the Appellant's illegal exit, and the fact that he would now be returned without a valid travel document, would itself place him at risk; the First-tier Tribunal had failed to deal with that argument, or the evidence that underpinned it. Judge Alis directed that the matter be remade at a later date. It had been thought that this appeal could be a suitable 'country guidance' case to address the 'illegal exit' argument, but following a lengthy delay in having it listed it was agreed that it was not. That was because there had been a material change in the Appellant's circumstances: in the hiatus between his appeal in the First-tier Tribunal and the matter being relisted in the Upper Tribunal the Appellant had, he claimed, converted to Christianity.
3. The Respondent accepts that if the Appellant has genuinely converted from Islam to Christianity he would, on the lower standard of proof, face a real risk of persecution for reasons of his religious belief in Iran today. The question before me is therefore a narrow one: has the Appellant in fact converted as he claims.
4. In order to determine that question I heard evidence from the Appellant himself, and from a Lieutenant Colonel Malcolm Hitchcott MBE, delegated as a representative of Liverpool Anglican cathedral where he works as a Eucharist Lay Minister¹. I heard helpful submissions from both representatives and I took all of the evidence into account. In weighing the Appellant's account I placed weight on the fact that an earlier Tribunal had found his evidence in respect of past events in Iran to be wanting, and that this part of decision had been upheld.

The Appellant's Case

5. The Appellant adopted his witness statement dated 24th August 2015. He states therein that he was born and brought up as a Muslim. He would attend Mosque on Fridays and normally prayed three times per day. He continued in this observance after he arrived in the UK. After some time however, one of his friends in the UK, a man named Mohammad, started speaking to him about Christianity. At the time the Appellant was suffering from depression and felt very sad. Mohammad was trying to help him. Mohammad told him that he had also felt like that when one day he had gone along to church. He had there found peace and had

¹ The bundle contains a letter dated 20th October 2014 from the Vice Dean of Liverpool Cathedral, Canon Myles Davies. The letter serves to confirm Lt Col Hitchcott's association with the cathedral.

felt better. Mohammad wanted the Appellant to find the same happiness. It was Mohammad who first took the Appellant to a church. In the summer of 2013 he took him to Liverpool cathedral.

6. The Appellant describes in detail the aspects of Christianity which he found to be attractive. Firstly he liked the informality of it and in his witness statement contrasts the strict rules of observance around Muslim prayer with the “relaxed” approach of Christians: “you can talk to God when you are free, when you are ready”. In respect of the spiritual dimension of the faith the Appellant believes that Jesus and God found him, not the other way around. He speaks of feeling “happiness”, “joy” and “lightness” since he became a Christian. As a matter of practical guidance, the Appellant acknowledges that Islam also offers a moral code on how to live your life, but finds that offered by Christianity to be clearer and more simple. He believes it is his duty to tell others about Jesus and the happiness he has found in him.
7. The Appellant’s journey into the Christian faith consisted of first visiting the Cathedral in Liverpool, then attending various meetings and asking “a lot” of questions. This led to an invitation to join the Alpha course and a bible studies group. These lessons started in January 2014 and on the 11th May 2014 the Appellant was baptised by Canon Richard White, Bishop Iraj Mottadeh and Bishop Cyril Ashton. He is a regular worshipper at the Sunday service and also attends the Iranian language classes on a Monday. He has his own Farsi copy of the bible which he reads every day.
8. During the course of his cross-examination the Appellant acknowledged that a feature of conversion had been that he began to find negatives in Islam, and to the Prophet Muhammad. He spoke with particular vehemence of how he disapproved of the Prophets marriage to a young girl, and his warlike behaviour. He agreed with Mr Harrison that he did not like war and was horrified by the wars waged by Muhammad and other Muslims. Mr Harrison asked him to explain how he reconciled his own abhorrence of violence with his friendship with Lt Col Hitchcott, who had for many years been in the British Army and had, it could be presumed, been to war himself. Mr Harrison further pointed out that Liverpool Cathedral has a large chapel hung with military flags. The Appellant had not considered this. He had not discussed these matters with Lt Col Hitchcott, but sought to draw a distinction between someone who wages an offensive war and someone who defends his country.
9. I heard from Lt Col Hitchcott. He adopted his statement dated 24th August 2015. As well as being an authorised Eucharistic Lay Minister Lt Col Hitchcott is the Assistant Leader of the Iranian

Ministry at the Cathedral. Lt Col Hitchcott served in the British Army for 25 years, and for much of his career had responsibility for training and assessing young Officers up to the rank of Major. He mentions this in the context of setting out his own experience in matters of judging and evaluating individuals; as he put it in his live evidence, "sometimes you get a 6th sense about these things". He was forthright in explaining how he understands that some Iranians might pretend to have found Jesus in order to support a false claim for asylum. This is something that he, and other clergy and staff at the Cathedral, are very aware of. He has personally refused to come to court for other Iranians who attend the cathedral and has also refused to baptise someone. The fact that some people might seek to abuse the trust of the Church has made him scrutinise the behaviour of the Iranian worshippers. He watches how they behave outside of formal services and meetings, and if this is found to be incongruous with their claim to be Christians, Lt Col Hitchcott would not support their asylum claims. He gave the example of one man whose demeanour at meetings was markedly different from that outside; whilst quiet and respectful in company he had been overheard in the men's bathroom using overtly sexual language and swearing. It was against this background that Lt Col Hitchcott asked me to evaluate his evidence about the Appellant.

10. Lt Col Hitchcott met the Appellant towards the end of 2013. In the early part of 2014 the Appellant started to attend the Alpha course and since that time Lt Col Hitchcott has known him to be a regular communicant at the Sunday service and at the Thursday morning bible class. As well as these weekly events Lt Col Hitchcott has, on many occasions, met the Appellant privately to discuss spiritual matters, Christian life and to pray together. Whilst he understands that no-one can definitively know what another believes, Lt Col Hitchcott has formed the view during the course of these discussions, meetings and services that the Appellant has a genuine relationship with God within the context of the Christian faith. He believes that the Appellant has the qualities required of a good young Christian leader. He has, to Col Hitchcott's knowledge, introduced at least two other Iranians to the church. As to the Appellant's knowledge of the bible and Christian values and teachings Lt Col Hitchcott finds this to be commensurate with the Appellant's claim to read the bible each day.
11. As well as the evidence of Lt Col Hitchcott I was provided with the additional written material concerning the Appellant's conversion:
 - Letter dated 19th August 2015 from the Very Reverend Dr Pete Wilcox, Dean of Liverpool. This confirms that the Appellant has completed the Alpha Course, has been

baptised and continues to regularly worship at the cathedral. Reverend Wilcox explains that for the vast majority of asylum seekers the cathedral will not be able to attend their Tribunal hearings, due to the demands of running the very busy cathedral: “however where an individual has had prolonged investment at the cathedral we do make every effort to attend or be represented”. The Appellant was one of those special cases and it is for that reason that Lt Col Hitchcott was asked to attend.

- Statement by Canon Emeritus of Liverpool Cathedral, Canon John V. Roberts, dated 24th August 2015. Canon Roberts reiterates that the Cathedral would not authorise the baptism of any individual whom they did not believe to be truly Christian. He states that the cathedral has on a number of occasions declined to support asylum claims by individuals who have requested it. Canon Roberts supports the Appellant’s claim because he knows him well, having ministered to the Iranian congregation in 2013. He has spoken to him on numerous occasions since then. In Canon Roberts’ opinion the Appellant is a genuine and committed Christian. Having been a minister for over 55 years Canon Roberts believes that he has the experience to be able to recognise genuine faith
- Letter dated 14th May 2014 from Reverend Canon Richard White confirming that as far as he is concerned the Appellant has genuinely converted
- Statement by Iranian national Mohammad Eshraghifar dated 21st August 2015 to confirm that the Appellant introduced him to Christianity and that he has since been baptised
- Statement by Iranian national Abolfazl Babayoliae dated 31st March 2014 to confirm that the Appellant introduced him to Christianity and that he is now waiting to be baptised
- Statement by Iranian national Ashkan Rashidi dated 31st March 2014 to confirm that the Appellant introduced him to Christianity, that he has attended the Alpha course and that he is now waiting to be baptised
- Statement by Iranian national Amir Mousari dated 21st August 2015 to confirm that the Appellant introduced him to Christianity and that he has been baptised
- Statement by Iranian national Hamid Yomi dated 23rd August 2015 to confirm that the Appellant introduced him to Christianity and that he has now been baptised
- Certificate of baptism plus photographs

My Findings

12. I remind myself that the burden of proof lies on the Appellant who must establish that there is a real likelihood that if returned to Iran he would be persecuted for reasons of his religious belief. The phrase 'real risk' reflects the lower standard of proof applicable in protection claims, and can also be expressed as a "reasonable likelihood".
13. I bear in mind that this is an Appellant whose account of persecution for reasons of his political opinion in Iran was rejected by the First-tier Tribunal. That is my starting point for assessing his new, *sur place* claim to have converted to Christianity. He has been found not to be a credible witness about those matters. I further bear in mind that it is all too easy for Iranian nationals to advance a false claim of conversion to Christianity in order to secure international protection: it is not hard to attend church a few times and learn some stories from the bible.
14. What is altogether more difficult is to persuade genuine and committed Christians that a false conversion is genuine. That is because these are men and women who will see the individual on a regular basis over a prolonged period, sometimes on a daily basis. These are people whose own understanding of their faith allows them to discuss it freely and in depth with others; as such a superficial understanding of the message will quickly be detected. Furthermore they are in many cases, as Lt Col Hitchcott exemplifies, men and women who have considerable life experience in the evaluation of others and their motives. In his role in the British Army Lt Col Hitchcott had cause, over the three decades that he did that work, to meet men of every rank and background, and to assess their sincerity and capabilities. It seems to me that he is very well placed to make comment on whether the Appellant's conversion to Anglican Christianity is genuine or cynical. Mr Harrison made clear that the Respondent has no challenge to the *bona fides* of Lt Col Hitchcott nor indeed any of the other figures from the Cathedral who provided their support in writing. The Respondent simply asks me to consider whether these good people have had the 'wool pulled over their eyes'. Having given careful consideration to all of the detailed evidence that they give, I conclude that they have not.
15. In his cross examination Mr Harrison identified something of a contradiction in the evidence in that the Appellant averred that he was opposed to war-making yet appeared to have reached no negative conclusions about Lt Col Hitchcott's military past nor indeed the Church of England's overt role in supporting the British Armed Forces. Having heard the oral evidence of the Appellant I am satisfied that his position is coherent; he drew the distinction between military offensives and defence. It is however, not something that he appeared to have given a great

deal of thought to.

16. I note that the Appellant has demonstrated his faith in Christianity by regular and persistent attendance at Liverpool cathedral since 2013. He has taken part in bible study groups and in supporting an encouraging other Iranian Muslims, or those born Muslim, to take part and to develop their interest in Christianity. More significantly he has satisfied the clergy and lay members of the cathedral that his devotion is sincere, to the extent that they were prepared to put pen to paper, and in the case of Lt Col Hitchcott, to attend court in person. Applying the lower standard of proof, and having taken all of the evidence into account, I am satisfied and find as fact that the Appellant has abandoned Islam and has converted to Christianity.
17. Mr Harrison conceded that if that was to be my finding, then the Appellant must be granted refugee status, since the Respondent accepts that an apostate from Islam is likely to face a serious harm in Iran today. The appeal is therefore allowed.
18. I wish to extend my gratitude to Ms Khan and Mr Harrison whose typically diligent preparation and pertinent submissions were, as ever, extremely helpful.

Decisions

19. The determination of the First-tier Tribunal contain an error of law and it has been set aside.
20. I was not asked to make a direction for anonymity.
21. I remake the decision in the appeal as follows:

“The appeal is allowed on refugee convention grounds.

The Appellant is not entitled to humanitarian protection because he is a refugee.

The appeal is allowed on human rights grounds”.

Deputy Upper Tribunal Judge Bruce
8th September 2015