



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

Appeal Number: AA/04834/2015

THE IMMIGRATION ACTS

**Heard at Glasgow
On 2 February 2016**

**Decision and Reasons
Promulgated
On 10 February 2016**

Before

UPPER TRIBUNAL JUDGE MACLEMAN

Between

ARSALAN MORVARIDNEJAD

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr M D Templeton, of Quinn Martin & Langan, Solicitors
For the Respondent: Mrs M O'Brien, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. The appellant is a citizen of Iran, born on 5 May 1991. He has not sought an anonymity order. He appeals against a decision by First-tier Tribunal Judge D H Clapham, promulgated on 6 August 2015.
2. The centrepiece of the appellant's claim is that he was convicted and sentenced by the Revolutionary Court for converting to Zoroastrianism.
3. At paragraph 67 the judge said:

"I accept the fact that the appellant received a summons which may have frightened him particularly given the fact that it appears to have come from the Revolutionary Court but there are a number of aspects of this evidence which give me concern."

4. Some concerns are set out at paragraphs 68 and 69, and are perhaps to be derived also from earlier parts of the determination. The judge continues at paragraph 70:

"I accept that he has only copies of the alleged documents and that there may be valid reasons for this ... but taking all the evidence in the round, because of the above inconsistencies, I am not placing significant weight on these documents."

5. Upper Tribunal Judge Kopieczek granted permission, on the view that arguably there was a lack of clear findings on the claim of having been convicted and sentenced by the Revolutionary Court.
6. The Presenting Officer did not seek to argue that the findings on the point were clear.
7. I uphold the submission that the findings are legally inadequate, on the central aspect of the claim.
8. Mr Templeton suggested, somewhat faintly, that there were positive findings about receipt of the summons which ought to be preserved; but I am unable to interpret the determination in that way.
9. The determination of the First-tier Tribunal is **set aside**. There are no findings to be preserved. Under section 12(ii)(b)(i) of the 2007 Act and Practice Statement 7.2 the nature and extent of judicial fact finding necessary for the decision to be remade is such that it is appropriate to remit the case to the First-tier Tribunal. The member(s) of the First-tier Tribunal chosen to reconsider the case are not to include Judge D H Clapham.



Upper Tribunal Judge Macleman

5 February 2016