



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: PA/01072/2017

THE IMMIGRATION ACTS

Heard at Liverpool
On 18th December 2017

Decision & Reasons Promulgated
On 28th December 2017

Before

DEPUTY UPPER TRIBUNAL JUDGE MANDALIA

Between

HSR
(ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr. H Pratt, WTB Solicitors

For the Respondent: Mr. C Bates, Home Office Presenting Officer

DECISION AND REASONS

1. Although an anonymity direction was not made by the First-tier Tribunal, as this a protection claim, it is appropriate that a direction is made. 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 amongst others to all parties. Failure to comply with this direction could lead to contempt of court proceedings.

2. The appellant is a national of Iran. He arrived in the UK on 5th February 2016 and claimed asylum. The claim for asylum was refused for the reasons set out in a decision dated 19th January 2017. That was the underlying decision that was the subject of the appeal before the First-tier Tribunal (“FtT”). The appeal was dismissed by FtT Judge Lloyd for the reasons set out in a decision promulgated on 13th July 2017.

The decision of the FtT Judge

3. A summary of the appellant’s asylum claim is set out at paragraphs [21] to [40] of the decision of the FtT Judge. I do not repeat the account of events relied upon by the appellant in this decision. The Judge also heard evidence from a number of witnesses and that evidence is set out at paragraphs [41] to [50] of the decision. At paragraph [51] to [53], the Judge refers to an expert report relied upon by the appellant. The Judge states:

“51. ...This says the letter of attestation by Mr Fathi is the sort used in filing a judicial complaint, if lodged officially, the allegations would have to be investigated. The Appellant would be wanted for questioning. An arrest warrant would be circulated nationwide and to border posts (sic). He could be arrested on arrival in Iran.

52. The report says trials are not fair as the judiciary is corrupt. He is at risk from an influential figure, namely Mr Fathi.

53. The report says the Appellant will be at risk on return as he has converted. He could face prison or execution.”

4. The findings and conclusions of the Judge are to be found at paragraphs [70] to [100] of the decision. The Judge accepts, at [71], that the appellant worked as a police officer in Iran, and that he retired from the police. However, the Judge rejected the appellant’s account that he was given an intelligence role to monitor the illegal activities of Mr Fathi. He also rejected, at [74], the appellant’s account of the indirect threats that the appellant perceived as a warning to him. The Judge was

able to attach little weight to the threatening texts that the appellant claimed to have received in the UK. The Judge rejected, at [78], the appellant's account that he was being monitored by Sepah. The Judge concludes:

"79. I find the Appellant has had no problems with Mr Fathi or Sepah in Iran, or since he left Iran. He will be at no risk on return from any such problems on his return.

80. I am not persuaded that the Appellant's wife and daughters have had any problems in Iran. The Appellant said they were in hiding, however his brother said they were living in Tehran. The Appellant or his brother have made no attempts to arrange for them to leave Iran. This is despite the fact Saied turned to Iran last year.

81. I found the expert report to be of limited assistance. It essentially repeats the Appellant's political problem which I have found not to be credible.

82. The legal documents are ones which could be put together quite easily to support an asylum claim which is not true. The letter of attestation from Mr Fathi is handwritten. I find it reasonably likely that someone with such influence as the Appellant says Mr Fathi has, would have submitted a typed, formal document instead of a handwritten note."

5. The Judge states, at [92], that he is satisfied to the lower standard of proof that the appellant is no longer loyal to Islam. He accepted that the appellant has attended a Kingdom Hall since he arrived in the UK and that he has participated in services. The Judge states *"The weight of the evidence suggests the appellant is a genuine and willing to convert to the Jehovah Witness faith."*
6. The Judge had already found, at [71] and [72], that the appellant was not suspected by the police to have converted from Islam, and that there were no problems for the appellant in Iran regarding a suspected conversion. At [93], the Judge states *"..I found the Appellant's account of the discovery of his conversion in Iran to be lacking in credibility..."*. The Judge rejected the appellant's account that the authorities have raided his home and found religious material that shows he has converted from Islam. The Judge also rejected the appellant's account that he was being followed by Sepah and found, at [95], that the appellant has not come to the attention of the authorities, due to any conversion in Iran.

7. Against that backdrop the Judge states:

“96. The question is whether the Appellant’s conversion would put him at risk on return to Iran. I remind myself of the lower standard of proof which is in the Appellant’s favour. I note that the court in SA (Iran) said there was a real risk that someone who has professed themselves to be a Christian and conducted themselves as one (sic) “may be taken in Iran as evidence of apostasy”.

97. In his asylum interview (question 51), the Appellant said his faith was private and he kept it to himself. I have asked myself whether the Appellant would live openly as a Jehovah Witness in Iran (as per HJ (Iran)).

98. I find there is no evidence connecting the Appellant to Christianity in Iran as I have already found that I am not satisfied that he has come to the attention of the authorities as religious material was found in his house. On the evidence I have seen, I find that the Iranian authorities would only find out about the Appellant’s connection with the Jehovah Witness and conversion if he told the authorities.

99. I therefore ask myself would the Appellant be likely to tell the authorities about his conversion or behave in such a way as to bring himself to their attention through his religious behaviour. Considering all the evidence about the Appellant and his background, I find there is ample evidence about his activities in Iran that I do not find to be remotely credible. I find this good evidence that he can and will dissemble when it suits him. I do not think he would deliberately put himself in unnecessary danger in Iran by deliberately alerting the authorities to his connections to the faith. The Appellant will be more than able to stay under the radar of the Iranian authorities’ interest. On his own evidence, he has practiced his faith undetected for ten years. The Appellant said he had no problems as a result during this period of time. There is little evidence of the Appellant going out of his way to evangelise other people or unnecessarily drawing attention to himself in a way likely to attract the adverse attention of the Iranian authorities. At the appeal hearing, the Appellant said he could practice his faith without a problem in Iran, it was the political problem that caused him to leave Iran. On this basis, it follows the Appellant will not be at risk of serious harm if he returns to Iran.

The appeal before me

8. The appellant refers to the two strands to the appellant’s claim and claims that there are legal errors in Judge’s analysis of both aspects of the claim. As to the claim on “political” grounds, the appellant claims that the Judge fell into legal error by

dismissing this matter on grounds of general implausibility, without more, and without considering the possibility that the Iranian Security Police might not act in a manner that the Immigration Judge would expect them to. It is said that the Judge pays scant regard to the expert report that was commissioned specifically to comment on the plausibility of an unusual asylum account, as set against the known country information. As to the claim on the grounds of the appellant's "conversion", it is claimed that the Judge failed to properly address the issues identified in **HJ (Iran)**. The Judge failed to address the motivation for the appellant concealing his faith. The appellant states that it was his evidence throughout his asylum application and the appeal, that whilst he did indeed conceal his conversion to the Jehovah Witness faith while in Iran, this was due to his fear of persecution.

9. Permission to appeal was granted by FtT Judge Pedro on 9th October 2017. The matter comes before me to consider whether the decision of the FtT involved the making of a material error of law, and if so, to remake the decision.
10. Mr Pratt adopted the appellant's grounds of appeal and submits that the Judge erred in his assessment of both strands of the appellant's claim. He submits that having found that the appellant is no longer loyal to Islam, and that the appellant is a genuine and willing to convert to the Jehovah Witness faith, the Judge failed to properly consider the issues in accordance with the decision of the Supreme Court in **HJ (Iran) -v- SSHD [2010] UKSC 31**. He submits that the Judge failed to determine why the appellant had lived quietly and discreetly in Iran. The appellant's evidence was that he had lived discreetly to avoid persecution. During the appellant's asylum interview, when he was asked about who knew of his conversion to a Jehovah Witness, the appellant explained that it was his father, his brothers, his wife, and their children. When asked why nobody else knew of the conversion, the appellant explained that he could not tell anyone because it is considered a crime punishable by capital punishment, if a person changes their religion. In his witness statement before the FtT, the appellant had stated that when he had returned to Iran previously, he had to keep his faith secret, because he would almost instantaneously face execution due to apostasy. He had maintained

that he could never practice his religious beliefs openly, because had he done so, it would have instantaneously meant his death. He submits that although the Judge may have considered whether the appellant would live openly as a Jehovah Witness, he did not ask himself “why” the appellant would not be able to live openly as a Jehovah Witness.

11. Mr Pratt submits that the Judge also erred in his assessment of the expert evidence that was relied upon by the appellant. At paragraph [81], the Judge dismisses the expert evidence in a perfunctory fashion finding it to be of limited assistance because it repeats the appellant’s account of events. Mr Pratt submits that the report is in fact a report that sets the appellant’s account of events against known background information. He submits that the Judge did not adequately engage with the expert’s report, and the Judge gives inadequate reasons for rejecting that report.
12. In reply, Mr Bates submits that in assessing the “conversion” claim, it is clear from a careful reading of paragraphs [97] to [99] of the decision, that the Judge was alive to the issues to be considered. At paragraph [99], the Judge noted that on his own account, the appellant had practised his faith in Iran, undetected, for 10 years. The appellant’s case was that he had no problems as a result during that period of time. The Judge also noted that there is little evidence of the appellant going out of his way to evangelise other people, or unnecessarily drawing attention to himself in a way likely to attract the adverse attention of the Iranian authorities. It was the appellant’s case that he could practice his faith without problem in Iran, and it was the political problem that caused him to leave Iran. Mr Bates submits that the findings and conclusions reached by the Judge were open to him on the evidence.
13. Mr Bates submit that it was for the Judge to make his credibility assessment of the account of events and advanced by the appellant. He submits that the appellant is unable to point to anything within the expert report that undermines the findings made by the Judge. He submits that the Judge looked at the specifics of the case,

and found the account advanced by the appellant not be credible, for reasons that were open to the Judge.

Discussion

14. I remind myself of the observations made by Mr. Justice Hadon-Cave in **Budhathoki (reasons for decisions) [2014] UKUT 00341 (IAC)**;

It is generally unnecessary and unhelpful for First-tier Tribunal judgments to rehearse every detail or issue raised in a case. This leads to judgments becoming overly long and confused and is not a proportionate approach to deciding cases. It is, however, necessary for judges to identify and resolve key conflicts in the evidence and explain in clear and brief terms their reasons, so that the parties can understand why they have won or lost.

15. I have also had regard to the decision of the Upper Tribunal in **Shizad (sufficiency of reasons: set aside) [2013] UKUT 00085 IAC** where it was stated in the head note that:

"Although there is a legal duty to give a brief explanation of the conclusions on the central issue on which the appeal is determined, those reasons need not be extensive if the decision makes sense, having regard to the material accepted by the judge."

16. Dealing first with the Judge's overall assessment of the claim and the credibility of the appellant, in **HK -v- SSHD [2006] EWCA Civ 1037**, the appellant's account had been rejected at first instance simply because the facts he described were so unusual as to be thought, unbelievable. The Court of Appeal held that that was not a safe basis upon which to reject the existence of events that were said to have occurred within an environment and culture that were wholly outside the experience of the decision-maker. At paragraph [28] of his judgment Neuberger LJ stated:

"Further, in many asylum cases, some, even most, of the appellant's story may seem inherently unlikely but that does not mean that it is untrue. The ingredients of the story, and the story as a whole, have to be considered against the available country evidence and reliable expert evidence,

and other familiar factors, such as consistency with what the appellant has said before, and with other factual evidence (where there is any)."

17. The assessment of credibility is always a highly fact sensitive task. The FfT Judge was required to consider the evidence as a whole. In assessing the credibility of the appellant and the claim advanced by him, the Judge was required to consider a number of factors. They include, whether the account given by the appellant was of sufficient detail, whether the account is internally consistent and consistent with any relevant specific and general country information, and whether the account is plausible. Some of those factors may be more relevant in an individual case than others. If an account is littered with internal inconsistencies that may be enough for a Judge to dismiss the evidence of an appellant as incredible. It does not follow that a Judge is entitled to dismiss an account in the same way simply because the account is implausible.
18. In Y -v- SSHD [2006] EWCA Civ 1223, Keene LJ stated:

*"25 There seems to me to be very little dispute between the parties as to the legal principles applicable to the approach which an adjudicator, now known as an immigration judge, should adopt towards issues of credibility. The fundamental one is that he should be cautious before finding an account to be inherently incredible, because there is a considerable risk that he will be over influenced by his own views on what is or is not plausible, and those views will have inevitably been influenced by his own background in this country and by the customs and ways of our own society. It is therefore important that he should seek to view an appellant's account of events, as Mr Singh rightly argues, in the context of conditions in the country from which the appellant comes. The dangers were well described in an article by Sir Thomas Bingham, as he then was, in 1985 in a passage quoted by the IAT in *Kasolo v SSHD 13190*, the passage being taken from an article in *Current Legal Problems*. Sir Thomas Bingham said this:*

"An English judge may have, or think that he has, a shrewd idea of how a Lloyds Broker or a Bristol wholesaler, or a Norfolk farmer, might react in some situation which is canvassed in the course of a case but he may, and I

think should, feel very much more uncertain about the reactions of a Nigerian merchant, or an Indian ships' engineer, or a Yugoslav banker. Or even, to take a more homely example, a Sikh shopkeeper trading in Bradford. No judge worth his salt could possibl[y] assume that men of different nationalities, educations, trades, experience, creeds and temperaments would act as he might think he would have done or even – which may be quite different – in accordance with his concept of what a reasonable man would have done.”

26. *None of this, however, means that an adjudicator is required to take at face value an account of facts proffered by an appellant, no matter how contrary to common sense and experience of human behaviour the account may be. The decision maker is not expected to suspend his own judgment, nor does Mr Singh contend that he should. In appropriate cases, he is entitled to find that an account of events is so far-fetched and contrary to reason as to be incapable of belief. The point was well put in the Awala case by Lord Brodie at paragraph 24 when he said this:*

“... the tribunal of fact need not necessarily accept an applicant's account simply because it is not contradicted at the relevant hearing. The tribunal of fact is entitled to make reasonable findings based on implausibilities, common sense and rationality, and may reject evidence if it is not consistent with the probabilities affecting the case as a whole”.

He then added a little later:

“... while a decision on credibility must be reached rationally, in doing so the decision maker is entitled to draw on his common sense and his ability, as a practical and informed person, to identify what is or is not plausible”.

27. *I agree. A decision maker is entitled to regard an account as incredible by such standards, but he must take care not to do so merely because it would not seem reasonable if it had happened in this country. In essence, he must look through the spectacles provided by the information he has about conditions in the country in question. That is, in effect, what Neuberger LJ was saying in the case*

of HK and I do not regard Chadwick LJ in the passage referred to as seeking to disagree.”

19. Here, at paragraph [70], the Judge confirms that he has not made findings without first looking at all the evidence in the round. Having made that clear, there is no reason for me to believe that he did not adopt that approach. What follows at paragraphs [71] to [82] are findings that, in my judgement, arise from a combination of inconsistencies in the account, a lack of detail or sufficient explanation, and matters that appeared to the Judge, to be implausible.

20. The Judge found, at [71] that the appellant worked as a police officer in Iran and that he retired from the police. The appellant’s own case was that he was asked to attend an interview with the Police Intelligence Force in spring 2011 and was asked about his parents and brothers who had converted to be Jehovah’s Witnesses. The Police said the appellant had been in contact with foreign nationals to sell information, and it was made clear to him that he should leave. He claims that after his early retirement, he was given an assignment to carry out, working in the office of Mr Fathi, to gather information about his activities to pass to the Police intelligence. The Judge considered it unlikely that the appellant would have been given such a role, knowing of the treatment of Christian Converts in Iran. The Judge considered the fact that the appellant had travelled regularly out of Iran in 2012 to Spain, Holland, Belgium, France and Italy. The Judge found that the appellant was happy to return to Iran, and was not at any risk. At paragraph [74], the Judge identified inconsistencies in the appellant’s account as to the threats received from Mr Fathi and at paragraph [80], the Judge identified an inconsistency between the evidence of the appellant and his brother as to whether the appellant’s wife and daughters are in hiding. At paragraph [76], the Judge notes that the appellant was evasive giving evidence at the hearing as to his work for Mr Fathi. On the appellant’s account of events that under-cover work was what caused the appellant to leave Iran.

21. I accept that in some respects the Judge has found that the account advanced by the appellant is implausible. However, when properly read, in my judgement, the Judge reached his decision as to whether those aspects of the appellant's account are plausible, not by reference to whether it would not seem reasonable if it had happened in the UK, but by reference to what is known in the objective evidence about the Iranian regime, and the view they take of those that convert their faith generally.

22. As to the Judge's assessment of the expert report, the Judge found at paragraph [81], that the expert report was of limited assistance. I have carefully read the report of Roya Kashefi for myself. At page 4 of the report, the expert records the documents that have been provided. The expert then sets out a summary of the appellant's case and notes that she has been instructed "to place the claim in context of background evidence and assess the risk to the appellant on return to Iran.". The report is set out in three parts addressing the issues for a Jehovah Witness from a Muslim background, covert work, and then information concerning the returns procedure and punishment for claiming asylum. The conclusions are summarised in section 4 of the report. In my judgment, the Judge carefully considered the opinions of the expert, but concluded that in the end, he could attach little weight to the report because the report is based upon the appellant's account of events of the political problems that he had claimed, which were found by the Judge not to be credible. In my judgment, the more an expert report and conclusions are based on the assumption that the account given by the appellant is to be believed, the less likely it is that any significant weight will be attached to it, in the event that the account is found, as here, not to be credible.

23. In reaching his decision as to the credibility of the appellant's account, the Judge did not disregard the expert's report. At paragraphs [51] to [53] of the decision, the Judge refers to the main conclusions of the expert, but the assessment of the credibility of the account advanced by the appellant was a matter for the Judge. The Judge had the opportunity of hearing the appellant and having his evidence

tested. The Judge did not consider irrelevant factors, and the weight that he attached to the expert's evidence in the circumstances, was a matter for him.

24. As Brooke LJ observed in the course of his decision in **R (Iran) v The Secretary of State for the Home Department [2005] EWCA Civ 982**, "unjustified complaints" as to an alleged failure to give adequate reasons are all too frequent. The obligation on a Tribunal is to give reasons in sufficient detail to show the principles on which the Tribunal has acted and the reasons that have led to the decision. Such reasons need not be elaborate, and do not need to address every argument or every factor which weighed in the decision. If a Tribunal has not expressly addressed an argument, but if there are grounds on which the argument could properly have been rejected, it should be assumed that the Tribunal acted on such grounds. It is sufficient that the critical reasons to the decision, are recorded.
25. In my judgment, the FtT Judge assessed the account through the spectacles provided by the information he had about conditions in Iran. More importantly however, the FtT Judge reached his overall findings by reference to a combination of inconsistencies in the account, a lack of detail or sufficient explanation, and matters that appeared to the Judge, to be implausible. I therefore reject the appellant's first ground of appeal.
26. Turning to the second strand of the appellant's case, I remind myself of the test set out by Lord Hope in his judgement in **HJ (Iran) -v- SSHD [2010] UKSC 31**. Such appeals involve what is essentially an individual and fact-specific inquiry. At paragraph [35], Lord Hope set out the test in the following way:

"35. This brings me to the test that should be adopted by the fact-finding tribunals in this country. As Lord Walker points out in para 98, this involves what is essentially an individual and fact-specific inquiry. Lord Rodger has described the approach in para 82, but I would like to set it out in my own words. It is necessary to proceed in stages.

(a) The first stage, of course, is to consider whether the applicant is indeed gay. Unless he can establish that he is of that orientation he will not be entitled to be treated as a member of the particular social group. But I would regard this part of the test as having been

satisfied if the applicant's case is that he is at risk of persecution because he is suspected of being gay, if his past history shows that this is in fact the case.

(b) The next stage is to examine a group of questions which are directed to what his situation will be on return. This part of the inquiry is directed to what will happen in the future. The Home Office's Country of Origin report will provide the background. There will be little difficulty in holding that in countries such as Iran and Cameroon gays or persons who are believed to be gay are persecuted and that persecution is something that may reasonably be feared. The question is how each applicant, looked at individually, will conduct himself if returned and how others will react to what he does. Those others will include everyone with whom he will come in contact, in private as well as in public. The way he conducts himself may vary from one situation to another, with varying degrees of risk. But he cannot and must not be expected to conceal aspects of his sexual orientation which he is unwilling to conceal, even from those whom he knows may disapprove of it. If he fears persecution as a result and that fear is well-founded, he will be entitled to asylum however unreasonable his refusal to resort to concealment may be. The question what is reasonably tolerable has no part in this inquiry.

(c) On the other hand, the fact that the applicant will not be able to do in the country of his nationality everything that he can do openly in the country whose protection he seeks is not the test. As I said earlier (see para 15), the Convention was not directed to reforming the level of rights in the country of origin. So it would be wrong to approach the issue on the basis that the purpose of the Convention is to guarantee to an applicant who is gay that he can live as freely and as openly as a gay person as he would be able to do if he were not returned. It does not guarantee to everyone the human rights standards that are applied by the receiving country within its own territory. The focus throughout must be on what will happen in the country of origin.

(d) The next stage, if it is found that the applicant will in fact conceal aspects of his sexual orientation if returned, is to consider why he will do so. If this will simply be in response to social pressures or for cultural or religious reasons of his own choosing and not because of a fear of persecution, his claim for asylum must be rejected. But if the reason why he will resort to concealment is that he genuinely fears that otherwise he will be persecuted, it will be necessary to consider whether that fear is well founded.

(e) This is the final and conclusive question: does he have a well-founded fear that he will be persecuted? If he has, the causative condition that Lord Bingham referred to in Januzi

-v- SSHD [2006] 2 AC 426, para 5 will have been established. The applicant will be entitled to asylum.

27. The Judge found that the appellant is a genuine and willing convert to the Jehovah Witness faith. The first stage of the test set out in **HJ (Iran)** is satisfied by the appellant. The next stage is to examine what the appellant's situation will be on return. The question is how the appellant looked at individually, will conduct himself if returned and how others will react to what he does. The appellant cannot and must not be expected to conceal aspects of his faith which he is unwilling to conceal, even from those whom he knows may disapprove of it. As Lord Hope emphasised in **HJ (Iran)**, the fact that the appellant will not be able to do in Iran, everything that he can do openly in the UK is not the test.
28. The FtT Judge rejected the appellant's account that the authorities in Iran had become aware of his conversion. The Judge found, at [95], that "*..the appellant has not come to the attention of the authorities due to any conversion in Iran*". That was of course looking at the past, but at paragraph [96] of the decision, the Judge reminds himself that the question is whether the appellant's conversion would put him at risk on return to Iran. At paragraph [97], the Judge states "*..I have asked myself whether the appellant would live openly as a Jehovah Witness in Iran (as per HJ Iran)*". As to how the appellant will conduct himself if returned, and how others will react to what he does, the Judge states at [99];

"...I do not think he would deliberately put himself in I unnecessary danger in Iran by deliberately alerting the authorities to his connections to the faith. The Appellant will be more than able to stay under the radar of the Iranian authorities' interest. On his own evidence he has practiced his faith undetected for ten years. The Appellant said he had no problems as a result during this period of time. There is little evidence of the Appellant going out of his way to evangelise other people or unnecessarily drawing attention to himself in a way likely to attract the adverse attention of the Iranian authorities. At the appeal hearing, the Appellant said he could practice his faith without a problem in Iran. It was the political problem that caused him to leave Iran."

29. Adopting the test set out in **HJ (Iran)**, the next stage, if it is found that the applicant will in fact conceal aspects of his faith if returned, is to consider why he will do so. In order to reach this stage, there must be a prior finding that the appellant will in fact conceal aspects of his faith if returned to Iran. The Judge did not find that the appellant will conceal aspects of his faith. Carefully read, the Judge found that the appellant had been able to practice his faith previously and would be able to continue doing so, upon return. As the Judge notes at paragraph [99] of the decision, *“On his own evidence he has practiced his faith undetected for 10 years. The Appellant said he had no problems as a result during this period of time. There is little evidence of the Appellant going out of his way to evangelise other people or unnecessarily drawing attention to himself in a way likely to attract the adverse attention of the Iranian authorities...the Appellant said he could practice his faith without a problem in Iran...”*.
30. Having carefully considered the findings made by the Judge against the test set out in **HJ (Iran)**, I reject Mr Pratt’s submission that the Judge failed to properly consider the issues in accordance with the decision of the Supreme Court in **HJ (Iran)**. He submits that the Judge failed to determine why the appellant had lived quietly and discreetly in Iran, but one only reaches that stage if there is a prior finding that the appellant will conceal aspects of his faith if returned. On the evidence, in my judgment, it was open to the Judge to find that the appellant has practiced his faith undetected for many years without any problems. There was, as the Judge notes, little evidence of the appellant going out of his way to evangelise other people, or unnecessarily drawing attention to himself. The appellant’s own case was that he could practice his faith without a problem in Iran. There is no evidence that he will conduct himself any differently now, if returned. There was no evidence that the appellant will conceal aspects of his faith if returned. On return, he will be able to continue practising his faith, as he did previously.
31. On appeal, the Upper Tribunal should not overturn a judgment at first instance, unless it really cannot understand the original judge's thought process when he was making material findings. In my judgement, the Judge identified and resolved key conflicts in the evidence and gave a brief explanation of the conclusions on the

central issue on which the appeal was determined. The findings made by the Judge were findings that were properly open to the Judge on the evidence before the FtT. The findings cannot be said to be perverse, irrational or findings that were not supported by the evidence. The appeal was dismissed after the Judge had carefully considered the facts and circumstances of the claim and all the evidence before him.

32. In my judgment, the appellant is unable to establish that there was a material error of law in the decision of the FtT and it follows that the appeal is dismissed.

DECISION

33. The appeal is dismissed and the decision of the First-tier Tribunal Judge stands.
34. No anonymity direction was made by the First-tier Tribunal. As this is a protection claim, it is appropriate that a direction is made. 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 amongst others to all parties. Failure to comply with this direction could lead to contempt of court proceedings.

Signed

Date

18th December 2017

Deputy Upper Tribunal Judge Mandalia

TO THE RESPONDENT

FEE AWARD

35. I have dismissed the appeal and therefore there can be no fee award.

Signed

Date

18th December 2017

Deputy Upper Tribunal Judge Mandalia