



**Upper Tribunal
(Immigration and Asylum Chamber)
PA/04443/2016**

Appeal Number:

THE IMMIGRATION ACTS

Heard at Bradford

On 10th July 2017

**Decision &
Promulgated
On 19th July 2017**

Reasons

Before

DEPUTY UPPER TRIBUNAL JUDGE D E TAYLOR

Between

**PARVIN DOOST ALI
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr E Gayle, instructed by Elder Rahimi Solicitors
For the Respondent: Mr M Diwnycz, Home Office Presenting Officer

DECISION AND REASONS

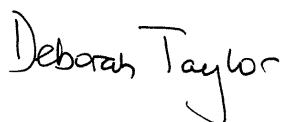
1. This is the appellant's appeal against the decision of Judge Monaghan made following a hearing at Bradford on 15th December 2016.
2. Mr Gayle established that the judge materially erred in law in reaching her decision and Mr Diwnycz did not seek to make any argument against him in his submissions. The decision is set aside for the following reasons.
3. The judge wrote at paragraph 44 of the determination that her starting point in relation to the appellant's husband's asylum claim was the decision of First-tier Tribunal Judge Lawrence who had made comprehensive adverse credibility findings in relation to his appeal.

However she did not consider the decision of AS & AA (effect of previous linked determination) Somalia [2006] UKAIT 00052 which makes clear the need for caution when relying on a determination from a relative. In particular the conclusion of the previous decision maker is not in itself any evidence of the facts upon which the conclusions appear to have been based. It is only a starting point for the second Tribunal.

4. The wholesale adoption of Judge Lawrence's determination led the judge into error in relation to the findings in relation to this appellant, which is based on a wholly different factual matrix. For example she rejected the evidence of the second witness solely on the basis of the previous findings of Judge Lawrence when he gave evidence in the husband's appeal on an unrelated matter. Moreover the judge's view that it was wholly incredible that Judge Lawrence would make no mention of a crucial piece of documentary evidence if it had been presented to him, is problematic when Mr Gayle established that in fact it was before him.
5. Second, the appellant produced a large bundle of documentary evidence and oral evidence from two witnesses in support of her claim to be a member of the Bah'ai faith. The judge acknowledged that she displayed considerable knowledge of the faith at interview albeit that she was critical of her lack of knowledge in some important respects. The documents included a somewhat unusual one, the quashing of a property transaction on the grounds that she had not informed the vendor that she was of the Bah'ai faith. It required some analysis and was not considered in the round but rejected in a generic sentence in which the judge said that it had been manufactured to support her claim because she did not accept that the appellant was Bah'ai.
6. The judge, furthermore, at paragraph 59, the judge made a mistake of fact in finding an inconsistency in relation to the date of the Bah'ai holy day, which was correct in the Persian calendar and found an inconsistency in her evidence in relation to the reason for fasting for reasons which are unclear. She made an adverse credibility finding on a third witness because he provided only his return ticket from Iran and not his outward ticket, which on the face of it does not appear logical.
7. Accordingly the decision will be re-made by an alternative Immigration Judge at Bradford.

No anonymity direction is made.

Signed



Deputy Upper Tribunal Judge Taylor
2017

Date 18 July

