



**Upper Tribunal
(Immigration and Asylum Chamber)
PA/11582/2016**

Appeal Number:

THE IMMIGRATION ACTS

Heard at Liverpool

On December 8, 2017

**Decision & Reasons
Promulgated**

On December 12, 2017

Before

DEPUTY UPPER TRIBUNAL JUDGE ALIS

Between

**MR KAMALALDIN HOSSEINI JAFARLOU
(NO ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Miss Tabassum (Legal Representative)

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

DECISION AND REASONS

1. I do not make an anonymity direction.
2. The appellant is an Iranian national. The appellant entered the United Kingdom on April 19, 2016 and claimed asylum. The respondent refused his protection claim on October 6, 2016 under paragraphs 336 and 339F HC 395.
3. The appellant lodged grounds of appeal on October 20, 2016 under Section 82(1) of the Nationality, Immigration and Asylum Act 2002. His appeal came before Judge of the First-tier Tribunal Swinnerton (hereinafter

called “the Judge”) on February 13, 2017 and in a decision promulgated on February 28, 2017 the Judge refused his appeal on all grounds.

4. The appellant appealed the decision on March 7, 2017. Permission to appeal was granted by Designated Judge of the First-tier Tribunal Shaerf on April 25, 2017 who found the grounds arguable. The respondent lodged a Rule 24 response dated May 11, 2017 in which she argues there was no error in law.
5. The matter came before me on the above date and the parties were represented as set out above.

SUBMISSIONS

6. Miss Tabassum adopted the grounds of appeal and submitted that the Judge had erred in his approach to the Dorodian witness evidence. Three witnesses have attended and given evidence which the Judge did not find any fault but he then went on to reject their evidence and find the appellant was not a genuine Christian. Although the Judge made adverse findings on the appellant’s account of what happened in Iran this did not mean his conversion was not genuine especially where three witnesses had attested to his genuineness. The Judge made findings over aspects of the witness evidence without giving those witnesses an opportunity to address any concerns.
7. Mr McVeetie relied on the Rule 24 statement and submitted that having rejected his credibility the Judge considered his sur place claim of being a Christian convert. He gave reasons for rejecting his claim and whilst he accepted the Church witnesses were both honest and sincere he ultimately concluded the appellant was not a genuine convert.
8. Having heard submissions I reserved my decision.

FINDINGS ON THE ERROR IN LAW

9. The Court of Appeal in R (Iran) [2005] EWCA Civ 982 provided guidance on what could amount to an error in law. Clearly, if Miss Tabassum’s submissions were made out there would be an error in law.
10. The main ground of appeal in my view centred around the treatment of the Dorodian witness evidence. Miss Tabassum’s submission was two-fold namely (a) the Judge should have put his concerns to the witnesses and (b) their evidence should have been given more weight when considering the credibility of the appellant’s claim to be a convert.
11. In considering the appellant’s claim the Judge initially had to deal with his claim of what happened in Iran. He claimed there had been problems between his family and Etelaat and that the authorities had taken his family’s land and not paid any compensation. The appellant claimed he wrote about the authorities in a derogatory way and that his writings had been discovered and he was now a wanted man. The Judge rejected this

claim and in appealing the decision no challenge has been made to these findings.

12. The Judge went onto consider the evidence of him having converted to Christianity. The Judge accepted the three church witnesses were both honest and sincere and he set out their evidence between [10] and [17]. Whilst recording their evidence the Judge has also passed comment on all the evidence relating to his conversion claim. There is no suggestion that the Judge recorded their evidence incorrectly and there was a detailed examination of their evidence. Miss Tabassum criticises the Judge's approach to their evidence and his rejection of their evidence. It is clear from the Judge's consideration that he did not ignore the Dorodian witness evidence but considered their opinions and against the written and oral evidence provided by the appellant.
13. The Judge did not accept his claim of attending a secret Church meeting in Iran and whilst he accepted the Dorodian witnesses believed the appellant was a genuine convert he ultimately had to decide whether the appellant was actually a genuine convert. Contrary to the submission made by Miss Tabassum I am satisfied the Judge gave weight to the evidence of the witnesses. The Judge is not required to put potential findings to the witnesses because his role is to assess the evidence rather than make enquiries of witnesses. The challenges to the Judge's findings amount to a disagreement with those findings. The Judge is entitled to place such weight on the evidence as he thinks appropriate and that is exactly what he did.
14. The decision in SA (Iran) v SSHD [2012] EWHC 2575 (Admin) is a judicial review appeal. The case points out the pitfall of a person peering into a person's soul but ultimately that is what the three Dorodian witnesses were actually doing. The fact was he claimed to attend church services and meetings on a specified number of occasions. The issue ultimately for the Judge was whether he was genuine in his belief or not. The Dorodian witnesses' opinions together with the appellant's evidence was something the Judge considered but ultimately he concluded the appellant was not genuine. I am not satisfied there was an error in law.

DECISION

15. The making of the decision of the First-tier Tribunal did not involve the making of an error on a point of law. I uphold the decision.

Signed

Date 08.12.2017



Deputy Upper Tribunal Judge Alis

TO THE RESPONDENT
FEE AWARD

I make no fee award as the appeal was dismissed.

Signed

Date 08.12.2017

A handwritten signature in black ink, appearing to read "SPAL" with a flourish underneath.

Deputy Upper Tribunal Judge Alis