



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: PA/02556/2017

THE IMMIGRATION ACTS

Heard at Liverpool
On 23rd February 2018

Decision & Reasons Promulgated
On 15th March 2018

Before

DEPUTY UPPER TRIBUNAL JUDGE D N HARRIS

Between

MR VAHID PARVIZ
(ANONYMITY DIRECTION NOT MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: No appearance

For the Respondent: Mr M Diwnycz, Home Office Presenting Officer

DECISION AND REASONS

1. The Appellant is a citizen of Iran born on 6th February 1983. The Appellant left Iran on 1st October 2016, entering the UK on 29th June 2016 and claimed asylum on 10th October 2016, when he was served with notice as an overstayer. The Appellant's claim for asylum was based on having a well-founded fear of persecution due to his religion and ethnicity, namely that he was a born a Shia Muslim and had converted to Christianity. The Appellant's appeal was refused by Notice of Refusal dated 25th February 2017.

2. The Appellant appealed and the appeal came before Judge of the First-tier Tribunal Lever sitting at Manchester on 11th April 2017. In a decision and reasons promulgated on 3rd May 2017 the Appellant's appeal was dismissed on all grounds.
3. On 3rd May 2017 Grounds of Appeal were lodged to the Upper Tribunal. On 30th August 2017 Judge of the First-tier Tribunal Dineen refused permission to appeal. The renewed Grounds of Appeal were lodged on 17th September 2017.
4. On 16th October 2017 Upper Tribunal Judge Plimmer granted permission to appeal, concluding that it was arguable that the First-tier Tribunal had failed to take into account relevant evidence provided by Reverend Bradford as set out in Ground 1 and unfairly drew adverse inferences regarding other matters as set out in Ground 2, as amplified in the renewal grounds. On 7th November 2017 the Secretary of State responded to the Grounds of Appeal under Rule 24. It is on that basis that the appeal comes before me to determine whether or not there is a material error of law in the decision of the First-tier Tribunal Judge. There is no attendance by the Appellant or any legal representatives. The appeal was due to take place at 10 o'clock. At 11.15 there had been no attendance by the Appellant. He had been tannoyed. I note from the file that notice of hearing was sent to him at his last known address and that notice indicates that he has no representative. An interpreter who had attended was released. I was satisfied that the Appellant had been properly notified of the hearing and record that the notice of hearing had not been returned to the court. In such circumstances I proceeded in the absence of the Appellant. The Secretary of State was represented by his Home Office Presenting Officer Mr Diwnycz.
5. The Appellant's grounds contend that the First-tier Tribunal Judge erred in law by departing from the authority of *Ali Dorodian 01/TH/01537* by giving insufficient weight to the Appellant's reasonably comprehensive knowledge of the scripture, his regular church attendance and the fact that a minister of religion attended the Tribunal to vouch for him and that the First-tier Tribunal Judge had arguably deprived the Appellant of a fair hearing by not putting to the Appellant matters of credibility which he later held against him in dismissing the appeal. Further it was contended that the Appellant averred that Judge Lever had arguably misunderstood the church's policy in respect of baptism, a matter that was not a subject of contention between the parties and failed to properly take into account the evidence in respect of the church's approach to baptism. Further it was contended that a fair reading of the Record of Proceedings made by the Appellant's advocate revealed that the matter of credibility held against the Appellant by Judge Lever was not canvassed during the hearing and accordingly the judge may arguably have deprived the Appellant of a fair opportunity to provide an explanation for the matter said to be implausible. I note those contentions. There is on file a witness statement from the advocate who attended on the Appellant's behalf before the First-tier Tribunal, Mr Greer. I give it read through consideration. However, Mr Greer nor any legal representative, is of course present before me.
6. Mr Diwnycz in his submissions relies in his entirety on the Rule 24 response. He submits that the Reverend Bradford's evidence is recorded between paragraphs 11

and 13 of the determination and the judge considers his evidence between paragraphs 35 and 38. He further refers me to the authority of the *Secretary of State for the Home Department v Maheshwaran* [2002] EWCA Civ 173 and reminds me that fairness does not require that every point be put by a judge. He further contends that the credibility findings made by the First-tier Tribunal Judge were reasonably open to him. He asked me to dismiss the appeal.

The Law

7. Areas of legislative interpretation, failure to follow binding authority or to distinguish it with adequate reasons, ignoring material considerations by taking into account immaterial considerations, reaching irrational conclusions on fact or evaluation or to give legally inadequate reasons for the decision and procedural unfairness, constitute errors of law.
8. It is not an arguable error of law for an Immigration Judge to give too little weight or too much weight to a factor, unless irrationality is alleged. Nor is it an error of law for an Immigration Judge to fail to deal with every factual issue of argument. Disagreement with an Immigration Judge's factual conclusion, his appraisal of the evidence or assessment of credibility, or his evaluation of risk does not give rise to an error of law. Unless an Immigration Judge's assessment of proportionality is arguable as being completely wrong, there is no error of law, nor is it an error of law for an Immigration Judge not to have regard to evidence of events arising after his decision or for him to have taken no account of evidence which was not before him. Rationality is a very high threshold and a conclusion is not irrational just because some alternative explanation has been rejected or can be said to be possible. Nor is it necessary to consider every possible alternative inference consistent with truthfulness because an Immigration Judge concludes that the story is untrue. If a point of evidence of significance has been ignored or misunderstood, that is a failure to take into account a material consideration.

Findings on Error of Law

9. It is appropriate, when an Appellant is not in attendance, for a judge to give a full and fair reading to the papers that are before him and I confirm that I have done this and that I have read and considered Judge Lever's decision and the Grounds of Appeal. The Grounds of Appeal effectively however do not stand up to anxious scrutiny. The judge considered the evidence and made findings of credibility which I am satisfied were open to him. He was entitled to look at this matter in the round.
10. Further, as is set out in the Rule 24 response, there has been a considerable analysis carried out by the judge of the evidence of the Reverend Bradford. His evidence is recorded in three paragraphs of the determination and is considered in the conclusions found at paragraphs 35 to 38. At paragraph 38 Judge Lever draws conclusions as to the Reverend Bradford's testimony. He does not doubt his truthfulness. He then goes on at paragraphs 39 and 40 to express reasons for the judge's concern with the Reverend Bradford's evidence and those of the Appellant. It is clear therefore that this is a judge who has carried out a detailed analysis of the

evidence that was before him and drawn conclusions to which he was entitled. Further, whilst I note that the reference in Mr Greer's statement at paragraph 4 as to evidence that was not canvassed in cross-examination, the judge had heard the evidence and has made findings which he was entitled to. In such circumstances I am satisfied that the written Grounds of Appeal amount to little more than disagreement with the findings of the judge.

11. Overall this is a well-reasoned decision by an experienced First-tier Tribunal Judge and the decision discloses no material errors of law. In such circumstances the Appellant's appeal is dismissed and the decision of the First-tier Tribunal Judge is maintained.

Notice of Decision

The decision of the First-tier Tribunal discloses no material error of law and the Appellant's appeal is dismissed and the decision is maintained.

No anonymity direction is made.

Signed

Date 14 March 2018

Deputy Upper Tribunal Judge D N Harris

TO THE RESPONDENT FEE AWARD

No application is made for a fee award and none is made.

Signed

Date 14 March 2018

Deputy Upper Tribunal Judge D N Harris