



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

Appeal Number: PA/10015/2016

THE IMMIGRATION ACTS

**Heard at Newport
On 28 February 2018**

**Decision & Reasons Promulgated
On 23 March 2018**

Before

DEPUTY UPPER TRIBUNAL JUDGE CHAPMAN

Between

**[M E]
(ANONYMITY DIRECTION MADE)**

Appellant

v

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms. S. Caseley, counsel instructed by Migrant Legal Project

For the Respondent: Mr. K. Hibbs, Home Office Presenting Officer

ERROR OF LAW DECISION AND REASONS

1. The Appellant is a national of Iran, born on [] 1971. He arrived in the United Kingdom on 5.3.16 and claimed asylum the same day, on the basis that he has a well-founded fear of persecution in Iran as a Christian convert.

2. His asylum application was refused in a decision dated 2.9.16 and he appealed against that decision. His appeal came before First tier Tribunal Judge Solly for hearing on 20.3.17. In a decision and reasons promulgated on 3.4.17 the Judge dismissed the appeal.

3. An application for permission to appeal to the Upper Tribunal was made, one day out of time and refused. The application for permission to appeal was renewed to the Upper Tribunal, in time. The grounds in support of the application asserted that the Judge had erred materially in law:

- (i) in failing to apply the decision in Tanveer Ahmed [2002] UKIAT 00439 (IAC) to the letters and statements from the witnesses contained in the Appellant's bundle;
- (ii) in relying on an absence of corroborative evidence;
- (iii) in failing to apply anxious scrutiny to the evidence of Pastor Higham;
- (iv) in making multiple errors in her approach to the assessment of credibility;
- (v) in failing to properly consider the Appellant's refugee *sur place* claim in respect of his attendance at Church in the UK;
- (vi) in her approach to the issue of evangelism;
- (vii) in her approach to the risk to the Appellant on return to Iran in light of YouTube posts.

4. Permission to appeal was granted by Upper Tribunal Judge Perkins in a decision dated 23.10.17 in the following terms:

- "1. The grounds are well drawn and I give permission on each ground.*
- 2. I am particularly concerned that the Judge had not given proper weight to the opinion of Pastor Higham (ground 3) and the risk on return because of a YouTube posting showing the appellant denying Islam (ground 7).*
- 3. The evidential value of the circular letter of support from diverse Church members (page A16-A26) is probably modest and is to be read with the detailed support of Pastor Higham but the decision to afford it no weight is, subject to argument, startling."*

5. The Respondent lodged a rule 24 response on 13.11.17 opposing the appeal.

Hearing

6. At the hearing before the Upper Tribunal, despite the rule 24 response but in light of the very robust grant of permission to appeal, Mr Hibbs very fairly accepted that the grounds of appeal raised material errors of law in the decision of First tier Tribunal Judge Solly. I agree. In these circumstances it was not necessary to hear from Ms Caseley.

Decision

7. In light of the express acceptance by the Respondent that the decision of the First tier Tribunal contains material errors of law and bearing in mind the robust terms of the grant of permission to appeal, I find the decision is vitiated by material error of law. The decision of First tier Tribunal Judge Solly is set aside and the appeal is remitted for a hearing *de novo* before the First tier Tribunal.

Rebecca Chapman
Deputy Upper Tribunal Judge Chapman

22 March 2018