



**Upper Tribunal  
(Immigration and Asylum Chamber)** Appeal Number: PA/12884/2017

**THE IMMIGRATION ACTS**

**Heard at Priory Courts Birmingham  
On 18 January 2019**

**Decision & Reasons  
Promulgated  
On 18 February 2019**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE M A HALL**

**Between**

**J F  
(ANONYMITY DIRECTION MADE)**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr H Samra of Harbans Singh Solicitors

For the Respondent: Mr D Mills Senior Home Office Presenting Officer

**DECISION AND REASONS**

**Introduction and Background**

1. The appellant appeals against the decision of Judge AK Hussain (the judge) of the First Tier Tribunal (the FTT) promulgated on 12 January 2018.
2. The appellant is an Iranian national who arrived in the UK clandestinely on 12 April 2015 and claimed asylum. His asylum and human rights claim was refused on 22 November 2017. His appeal was heard and dismissed on 5 January 2018.

3. The appellant claimed that he and his wife, who had travelled to the UK with him, would be at risk from the authorities if returned to Iran. This was because the appellant had come to the adverse attention of the authorities because of his activities as a site acquisition manager for a Chinese company in Teheran, and because he and his wife had converted from Islam to Christianity and they are evangelical Christians.
4. Following dismissal of his appeal the appellant applied for permission to appeal to the Upper Tribunal contending that the judge had materially erred in law in finding that although the appellant and his wife had converted to Christianity in the UK, they would not be at risk if returned to Iran
5. Permission to appeal was granted by Judge Brunnen of the FTT who noted that the judge had accepted that the appellant had converted from Islam to Christianity and accepted that the appellant belonged to an evangelical church. Judge Brunnen found it arguable that the judge's finding that the appellant had not evangelised in the UK, would not do so in Iran, and could if necessary relocate to conceal his conversion and consequently would not be at risk in Iran is perverse.
6. Following the grant of permission to appeal the respondent lodged a response pursuant to rule 24 of the 2008 Procedure Rules indicating that the application for permission to appeal was not opposed and inviting the Upper Tribunal to hold an oral hearing to consider whether the appellant is a convert who actively pursues evangelism.

### **Consideration and Conclusions**

7. At the oral hearing Mr Mills adopted the rule 24 response and stated that the respondent accepted that the judge had erred in law in finding that the appellant would not be at risk of persecution in Iran because of his conversion from Islam to Christianity, and accepted that the decision of the FTT should be set aside and remade, allowing the appellant's appeal. This was because the findings made by the judge indicated that the appellant would be at risk if returned to Iran.
8. I find the concession made by the respondent to be rightly made. The judge at paragraph 31 of his decision was satisfied that the appellant and his wife are Christians and that they became Christians in the UK.
9. The judge rightly placed considerable weight upon the evidence of Reverend Austin who gave evidence in support of the appellant. Reverend Austin confirmed that his is an evangelical church and that the appellant is a member of that church and had been evangelising and had converted a fellow asylum seeker to Christianity. The judge also found at paragraph 34 that part of the appellant's faith is to evangelise.
10. Country guidance case law and the respondent's own guidance indicates that individuals who have converted from Islam to Christianity and who

are evangelical Christians and therefore to evangelise is part of their faith would be at risk in Iran.

11. I therefore accept what has been conceded by the respondent, in that the judge erred in law in finding that the appellant as an evangelical Christian who had converted from Islam would not be at risk in Iran. The decision of the FTT is set aside and I remake the decision by allowing the appeal on asylum grounds as the appellant has demonstrated to the lower standard of proof that he has a well-founded fear of persecution by reason of his religion. The appeal is also allowed with reference to article 3 of the 1950 European Convention as the appellant has proved that he would be at risk of being subjected to torture or to inhuman or degrading treatment or punishment if returned to Iran.

### **Notice of Decision**

The decision of the FTT involved the making of an error of law such that it is set aside.

The appeal is allowed on asylum grounds.

The appeal is allowed on human rights grounds with reference to article 3 of the 1950 European Convention.

### **Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008**

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 their family. This direction applies both to the appellant and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.



Signed  
2019

Date 27 January

Deputy Upper Tribunal Judge M A Hall

### **TO THE RESPONDENT FEE AWARD**

No fee is paid or payable and therefore there can be no fee award.

A handwritten signature in black ink, appearing to be 'M A Hall', written in a cursive style.

Signed  
2019

Date 27 January

Deputy Upper Tribunal Judge M A Hall