



Upper Tribunal

(Immigration and Asylum Chamber)

Appeal Number: PA/04106/2016

THE IMMIGRATION ACTS

**Heard at Manchester Piccadilly
On 12 September 2017**

**Decision & Reasons Promulgated
On 15 September 2017**

Before

DEPUTY UPPER TRIBUNAL JUDGE BIRRELL

Between

E P

(ANONYMITY DIRECTION MADE)

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms J Sachdev of Bury Law Centre

For the Respondent: Mr Diwnyz Senior Home Office Presenting Officer

DECISION AND REASONS

Introduction

1. I have considered whether any parties require the protection of an anonymity direction. No anonymity direction was made previously in respect of this

Appellant. Having considered all the circumstances and evidence I do not consider it necessary to make an anonymity direction.

2. The Appellant was born on 6 February 1981 and is a national of Iran. The Appellants daughter P F date of birth 22.9.2005 is her dependant in the appeal.
3. In order to avoid confusion, the parties are referred to as they were in the First-tier Tribunal.
4. The Appellant appealed a refusal of a protection claim dated 3 April 2016 and her appeal against that decision came before First-tier Tribunal Judge Somal who dismissed her claim on all grounds. That decision was challenged and at a hearing before me dated 16 June 2017 I set aside the decision in so far as it related to the Appellants conversion to Christianity and adjourned the matter for a rehearing before me.

The Law

Asylum

5. Paragraph 334 of the Immigration Rules states that the Applicant will be granted asylum if the provisions of that paragraph apply. The burden of proof rests on an Appellant to satisfy me that he or she falls within the definition of refugee in Regulation 2 of the Refugee or person in need of International Protection (Qualification) Regulations 2006 (which I shall refer to as the Qualification Regulations) as read with Article 1 (A) of the refugee Convention. In essence, an Appellant will have to show that there are substantial grounds for believing that the Appellant is outside his or her country of nationality or, if applicable, his or her country of habitual residence, by reason of a well founded fear of persecution for Refugee Convention reason and is unable or unwilling, owing to such fear, to avail himself or herself of the protection of that country.

The ECHR

6. The burden of proof rests of an Appellant to satisfy me that there are substantial grounds for believing that, as a result of the Respondent's decision, he or she will be exposed to a real risk of torture, or inhuman or degrading treatment or punishment contrary to Article 3. Where applicable, it is for the Appellant to satisfy me that he or she has an Article 8 private and/or family life in this country

which will be interfered with by the decision under appeal. If that is shown, the Respondent must establish that the decision is legitimate, taken in pursuit of a legitimate aim and necessary and proportionate in a democratic society.

7. The Immigration Rules and case law assists the court when considering the position facing a person who claims to have engaged in activities in the United Kingdom which would bring them to the attention of the authorities in their country of return. Paragraph 339P of HC 395 states:

“A person may have a well-founded fear of being persecuted or a real risk of suffering serious harm based on events which have taken place since the person left the country of origin or country of return and/or activities which have been engaged in by a person since he left the country of origin or country of return, in particular where it is established that the activities relied upon constitute the expression and continuation of convictions or orientations held in the country of origin or country of return.”

8. I must also consider Paragraph 339J(iv) which states that the Secretary of State must take into account, inter alia ,

“whether the person’s activities since leaving the country of return were engaged in for the sole or main purpose of creating the necessary conditions for making an asylum claim or establishing that he is a person eligible for humanitarian protection or a human rights claim, so as to assess whether these activities will expose the person to persecution or serious harm if he returned to that country”

The Proceedings

9. The Respondent’s bundle consisted of: Asylum appeal bundle; Country of Origin Information passages; Refusal letter; Notice and Grounds of Appeal.
10. The Appellant’s bundle consisted of: A bundle numbered 1-272 (AB1) that was before the First-tier Tribunal; A Bundle under cover of a letter dated 5 September 2017 number 1-56; Skeleton argument.

The Proceedings – Evidence

11. The Appellant had provided witness statements which were found in AB 1 at pages 3-15 and AB2 at pages 1-2. The Appellant gave oral evidence and was asked two questions in cross examination.

The Appellant's Case

12. The Appellant's claim in relation to her religious conversion was in essence that

- a) She was born a Muslim but had not been an observant one while in Iran.
- b) She arrived in the UK on 31 December 2015 and lived briefly in London, then Manchester then Liverpool and then Manchester again. She was lonely and met other Iranians at the solicitors office who told her that she could meet other Iranians at Church and she was given the telephone number of an Iranian who took her to the Gorton Evangelical Church. She met other Iranians there and initially her interest was just in making friends not in converting. She did attend classes but more for social reasons.
- c) At the time of her substantive interview she had only attended Church on two occasions. By March 2016 after continuing to attend Church and the classes she had come to believe in the teachings of Christianity.
- d) The Appellant met an Iranian who told her about a Church that was nearer to where she lived in Radcliffe, St Johns, St Philips and St Thomas as the one in Gorton was two bus rides away. She started to attend there with her daughter, attending on a Sunday and classes on a Friday.
- e) They also attended a Church in Stockport occasionally as they had Farsi books and Farsi interpreter.
- f) On 27 May 2016 the Appellant and her daughter were baptised and on 1 June 2016 they were both confirmed.
- g) The Appellant and her daughter continue to attend the Church in Radcliffe regularly on both Sundays and any other special days they are notified of and no longer attend the other Churches because her English has improved. The Church has put on English classes and her English has improved to the extent that she can assist in interpreting for others whose

English is not so good. The Appellant and her daughter both help in the Friday Pilgrim Course. Her daughter's English is perfect.

h) She confirmed in cross examination that if she were returned to Iran she would continue as a Christian and if asked would confirm that she was a Christian.

13. I also heard evidence from the Appellants daughter P F who is now 11 years old. She gave evidence in English which was, as her mother stated, perfect. I was satisfied when listening to her evidence that she understood the importance of telling the truth in these proceedings. She confirmed that she had written the letter at AB2 page 3.

14. She stated that in Iran everyone has to be a Muslim and she likes the fact that no one makes her be a Christian, it is her choice. She is happy to be allowed to wear her hair the way she chooses because in Iran she had to wear a scarf. She has found Christians to be kind and stated that Muslims 'just shout.' She confirmed that she made the choice of her secondary school herself because it was a Church of England School.

15. In cross examination she stated that she enjoyed going to Church better than to a Mosque.

16. In answer to questions by me she confirmed that people cried in Mosques but not in Church. She said that she did not go to Sunday School as it was for really young children. She confirmed that if she were asked what religion she was she would say that she was a Christian.

17. I also heard evidence from the Reverend Elizabeth Binns who adopted the contents of her statement at AB1 22-23 and AB2 page 5. I have also heard Reverend Binns give evidence in relation to other Iranian converts.

18. She confirmed that she was absolutely sure that the Appellant was a genuine convert to Christianity.

19. In cross examination she was asked whether there was 'the slightest possibility that the adult Appellant was pretending ' and stated that she really did not believe that was the case but it was unrealistic to say that no one can be fooled . She 100% believed that both the Appellant and her daughter were genuine converts.

20. I asked her what made her believe that their conversion was genuine. She talked of their growth in faith and that it was clear how much it meant to them. She felt she knew them well as she saw them in Church and had dined at their home. The Appellant was enthusiastic about her faith. She had guided other young woman which was important as their role as Christians was different to that in Islam.
21. She confirmed that about a fifth, 25/30. Of her congregation were Iranian converts. She confirmed that no one who had joined her Church as a convert had returned to Islam. A number of the Iranians had been granted status, some had been to court other had been granted leave immediately and all had continued to attend.
22. She judged when people were ready to take communion by their growth in faith based on her experience. She confirmed that it was not a matter of '20 questions', a test of their biblical knowledge. The other members of the congregation were part of the safeguards she relied on. No one within the congregation had said anything negative about the Appellant or her daughter indeed they were loved and admired by the whole congregation.
23. I also heard evidence from Alistair Finneron who adopted the contents of his letter in AB1 at page 24 and AB2 7-9. He confirmed that he also believed the Appellants were genuine converts based on conversation he had with them, their attendance at Church and their understanding and devotion to Jesus Christ.
24. In cross examination he stated that he had no reason to believe that he was having the wool pulled over his eyes.

Submissions

25. On behalf of the Respondent Mr Diwnycz made the following submissions:
26. The issue was whether the Appellant and her daughter had genuinely converted to Christianity. He conceded that if I accepted that they had then the appeal must succeed given the circumstances for Christian converts in Iran.
27. On behalf of the Appellant Ms Sachdev made the following submissions:
28. She relied on her skeleton argument.
29. The Appellant had given a detailed history of her conversion.

30. She was clear that she had first attended church in order to make friends but was now a committed Christian. Her daughter had chosen to attend a Church of England School.
31. She had the support of the Church in her claim and both of the witnesses who had given evidence believed the Appellant and her daughter were genuine.
32. She asked that I should give weight to evidence of both the Appellant and her daughter and that all of the evidence points to them being genuine converts.

Case Law and background material

33. The issue in this case is whether the Appellant has undergone a religious conversion and therefore I have taken into account Dorodian 01/TH 01537 where it was suggested that a statement or letter giving the full designation of the minister supporting a claimed conversion should be sent to the Home Office at least a fortnight before the hearing of any appeal, which should give the Home Office time to make a basic check on the minister's existence and standing. Unless the Home Office accepted that an appellant was a committed church member, in writing in advance, the minister should invariably be called to give evidence. In Shirazi v SSHD (2003) EWCA Civ 1562 the Court of Appeal generally approved the guidance.

Findings

34. I am required to look at all the evidence in the round before reaching any findings. I have done so. Although, for convenience, I have compartmentalised my findings in some respects below, I must emphasise the findings have only been made having taken account of the evidence as a whole.
35. The issue in this case is whether the Appellant has genuinely converted to Christianity because the Respondent accepts that if she has she is at risk on return to Iran, without more, given the deteriorating conditions for Christian converts Iran as set out in the most recent Country Guidance and relied on by Ms Sachdev in her bundles and her skeleton argument. I am satisfied however that I am also entitled to take into account whether the Appellants daughter, albeit only a dependent in this appeal, has genuinely converted as I am satisfied that her behaviour and beliefs on return could also expose her and her mother to risk whatever views I formed of the mother.

36. I take into account that the background of this case is that the Appellant asserts that she fled from Iran not because of her religious beliefs, as those arose after her arrival in the UK, but because she had embarked on a relationship with another man while in the process of divorcing her first husband. Her estranged husband found out about the relationship and this put her at risk and caused her to flee. This account was rejected by a previous Judge. However, I am satisfied that a finding that she did not meet the evidential burden of establishing that this account was true is not determinative of the issue of her conversion to Christianity albeit it may be a factor that I take into account in the overall assessment of her credibility.
37. I am satisfied that the identification of genuine religious beliefs is a very difficult matter for any Judge as was recognised in the case of SA referred to above as religious beliefs are rarely amenable to rational explanation. I am therefore satisfied that I am entitled to take into account as helpful in determining the issue the context and motivation behind her conversion and how she manifests her faith.
38. In relation to the context and motivation for her conversion I am satisfied that the Appellant has given a consistent and plausible account throughout the process. While I note that it is recorded in her Screening Interview (SI) at 1.12 that she is Shia Muslim I note that this part of the record has been typed whereas other parts of the record are handwritten, which may suggest that the handwritten parts are contemporaneous records of what the Appellant said at the time of the SI but it is less clear where the typewritten information has come from. I note that at the substantive interview (AI) she sought to correct this response at Q6 stating that she had no religion which is consistent with her account subsequently that she was not an observant Muslim.
39. I find her account that as an unobservant Muslim she first attended a Church because she was lonely and seeking the company of other Iranians is also plausible and it is easy to see that, for example, the offer of free food, English lessons and a welcoming attitude especially to women might be the initial attraction of the Christian Church but this could develop into an interest in the religion which underpinned such a welcoming attitude. The fact that a fifth of Reverend Binns congregation are Iranians suggests that the Appellant was right to seek out her fellow Iranians there.

40. The account that she gives in relation to her first attendances at a Church and how that came about are confirmed in statements in the AB1 including statements from the Iranian she met in Jackson and Cantor who provided her with further contact information, the leader of the Gorton Pentecostal Church and from the Father at St Aphrahat Church.
41. The bulk of the evidence about the Appellant and her daughter's outward manifestation of faith comes from the Reverend Binns and Mr Finneron. I find that they both gave powerful and persuasive evidence. The Reverend Binns strikes me as a very compassionate and engaging lady, very sensible yet with a ready sense of humour and I can see that a lonely woman separated from her family and home and struggling to cope would be drawn in by the Reverends kindly attitude.
42. The Reverend Binns who has now known and had regular dealings with the Appellant since March 2016 readily acknowledges of course that vicars are not infallible but I nevertheless note that her congregation of Iranian Christians includes both those who were recognised as refugees immediately and those who have had appeal hearings and all continue to attend and that no one who has been recognised by her as a convert has reverted to Islam. This suggests to me that her opinion on the issue of the genuineness of the Appellants conversion is one to which I can attach weight.
43. I find that in attempting to articulate the behaviours that convinced her of the Appellants genuine conversion both Reverend Binns and Mr Finneron used terms that may sound unfamiliar to those of us who do not share her faith but clearly they were powerfully persuasive for her. I also remind myself of what was said in the House of Lords case of R (Williamson and Others) v. Secretary of State for Education and Employment [2005] UKHL 15 where Lord Nicholls addressed the issue of religious beliefs very well, warning judges that great care must be taken assessing the value of faith and beliefs to another human being: Typically, religion involves belief in the supernatural. It is not always susceptible to lucid exposition or, still less, rational justification. The language used is often the language of allegory, symbol and metaphor. Depending on the subject matter, individuals cannot always be expected to express themselves with cogency or precision. The facts relied on both by the Reverend Binns and Mr Finneron clearly persuaded both of them that the Appellant is a genuine Christian and that

there was nothing about the Appellants manifestation of her faith that caused them to doubt her sincerity.

44. I am therefore satisfied that the Appellant has attended Church regularly with her daughter since March 2016. I am satisfied that as her English has improved she has focused on attending St Johns and is a very popular and well respected member of the congregation and that no one has any doubts that she is a genuine convert.

45. Moreover I am also satisfied that the Appellants daughter who gave evidence before me now regards herself as a Christian and gave, what for her, were logical and articulate reasons why she preferred attending Church to attending a Mosque. I have absolutely no doubt that she would prefer to continue attending a Church.

46. While I take into account the background to the Appellants conversion as set out above I am satisfied that both the Appellant and her daughter are genuine converts to Christianity and would be at risk on return to Iran where both would profess their faith if asked.

Conclusions on Asylum

47. I find that the Appellant has discharged the burden of proof on her to show that she has a well-founded fear of persecution for a reason recognised by the Geneva Convention. Accordingly, the Appellant's removal would cause the UK to be in breach of its obligations under the Geneva Convention.

Conclusions on ECHR

48. On the facts as established in this appeal, there are substantial grounds for believing that the Appellant's removal would result in treatment in breach of ECHR.

Decision

49. The appeal is allowed on asylum grounds.

50. The appeal is allowed on human rights grounds.

51. **Under Rule 14(1) the Tribunal Procedure (Upper Tribunal) rules 2008 9as amended) the Appellant can be granted anonymity throughout these**

proceedings, unless and until a tribunal or court directs otherwise. An order for anonymity was made in the First-tier and shall continue.

Signed

Date 15.9.2017

Deputy Upper Tribunal Judge Birrell