



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

Appeal Number: PA/09242/2016

THE IMMIGRATION ACTS

**Heard at Bradford
On 27 March 2018**

**Decision and Reasons
Promulgated
On 10 April 2018**

Before

DEPUTY UPPER TRIBUNAL KELLY

Between

**MR ARYAN QADIR MUHAMMEDI
(anonymity direction not made)**

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms G Patel, Counsel instructed by Iris Law Firm

For the Respondent: Mrs R Pettersen, Senior Home Office Presenting Officer

DECISION AND DIRECTIONS

1. Mr Aryan Qadir Muhammedi appeals against the decision of Judge Moran, promulgated on the 7th April 2017, to dismiss his appeal against the respondent's refusal of his protection and human rights claims.
2. The appellant's application for permission to appeal was made on two grounds, each of which sought to challenge the judge's credibility findings. Judge Ransley refused permission to appeal on those grounds

on the 17th August 2017 and, following a renewed application to the Upper Tribunal on the 2nd September 2017, Judge Lindsley also found those grounds to be unarguable. She nevertheless granted permission to appeal on the 'Robinson-obvious' ground that the appellant would be questioned on return to Iran, and that the consequent disclosure of his regular church attendance over a period of 7 months (as at the date of the hearing before the First-tier Tribunal) arguably, "... might lead to the applicant being subject to further questioning on return and to a real risk of serious harm [paragraph 23 of **SSH and HR** [2016] UKUT 308]".

3. The paragraph to which Judge Lindsley referred reads as follows:

"In our view the evidence does not establish that a failed asylum seeker who had left Iran illegally would be subjected on return to a period of detention or questioning such that there is a real risk of Article 3 ill-treatment. The evidence in our view shows no more than that they will be questioned, and that if there are any particular concerns arising from their previous activities either in Iran or in the United Kingdom or whichever country they are returned from, then there would be a risk of further questioning, detention and potential ill-treatment. In this regard it is relevant to return to Dr Kakhki's evidence in re-examination where he said that the treatment they would receive would depend on their individual case. If they cooperated and accepted that they left illegally and claimed asylum abroad then there would be no reason for ill-treatment, and questioning would be for a fairly brief period. That seems to us to sum up the position well, and as a consequence we conclude that a person with no history other than that of being a failed asylum seeker who had exited illegally and who could be expected to tell the truth when questioned would not face a real risk of ill-treatment during the period of questioning at the airport. We should add that we see no reason to doubt Dr Kakhki's evidence that there is a special court at or near the airport which considers the cases of returnees but the evidence does not show a real risk of ill-treatment in breach of Article 3 amounting to persecution as a consequence of attending at court."

4. Ms Patel put her argument on the basis that the appellant continued to maintain that he was a genuine Christian convert and, in order to be true to his conscience, would necessarily be bound to inform the Iranian authorities that he had been attending church in the United Kingdom to that end and that he intended to continue doing so in Iran. She also submitted that the appellant would have an enhanced profile as an 'undocumented returnee'. Mrs Pettersen, on the other hand, argued that given that the judge had disbelieved the appellant's claim to be a genuine convert to Christianity, all he could truthfully say was that he had attended a Christian church but that the judge in the United Kingdom had not accepted that he had done so as a genuine convert. The appellant did not therefore have a profile that was reasonably likely to cause the Iranian authorities particular concern so as to detain him pending further enquiries. The Iranian authorities would therefore view him as simply a 'failed asylum-seeker'

5. The difficulty with Ms Patel's argument is that it effectively ignores the finding by Judge Moran that whilst the appellant may have found "friendship and fellowship" through his attendance at church, he was nevertheless not a genuine convert to Christianity. Therefore, provided that the appellant was to tell the *whole* truth upon being initially questioned by the Iranian authorities (and there cannot be any good reason for him to do otherwise), there is no reason to suppose that he would be treated as anything more than a failed asylum-seeker who would accordingly be released after a fairly brief period. I do not accept Ms Patel's submission that the appellant would have an enhanced profile as an 'undocumented returnee' given the finding in **SSH** that a person with no history "other than that of a failed asylum seeker who had exited illegally" is not at risk on return to Iran. The reality is that the Iranian authorities would not accept the return of the appellant unless they were satisfied of his identity and had in consequence granted him an emergency travel document. The judge did not therefore make an error of law in failing to consider whether the appellant was at risk of Article 3 ill-treatment on return to Iran merely by reason of his attendance at church in the United Kingdom over a period of 7 months.

Notice of Decision

6. The appeal is dismissed.

Signed

Date: 9th April 2018

Deputy Judge of the Upper Tribunal