



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

Appeal Number: PA/10696/2016

THE IMMIGRATION ACTS

Heard at Newport

On 27 February 2018

**Decision & Reasons
Promulgated**

On 27 March 2018

Before

UPPER TRIBUNAL JUDGE GRUBB

Between

**S Y
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr C Howells instructed by NLS Solicitors

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

DECISION AND REASONS

1. Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 (SI 2008/2009) I make an anonymity order prohibiting the disclosure or publication of any matter likely to lead to members of the public identifying the appellant. A failure to comply with this direction could lead to Contempt of Court Proceedings.

Introduction

2. The appellant is a citizen of Iran who was born on [] 1987. She arrived in the United Kingdom on 29 March 2016 and claimed asylum. The basis of her claim was that she had become interested in Christianity in July/August 2015 and had become a Christian in September/October 2015 attending Christian House meetings and proselytising a close friend and a sister of another friend in Iran. She claimed that the Sepah had raided her house on 12 January 2016 and arrested her father. She was not present at the time but her mother subsequently phoned her aunt and told her what had happened. As a result, on 20 March 2016, the appellant left Iran travelling to Turkey by land and then by plane to the UK.
3. On 23 September 2016, the Secretary of State refused the appellant's claims for asylum, humanitarian protection and under the ECHR. The Secretary of State did not accept the appellant's account and that she had genuinely converted to Christianity.

The Appeal

4. The appellant appealed to the First-tier Tribunal. Judge A D Baker dismissed the appellant's appeal. She found the appellant's account not to be credible and also did not accept that she was a genuine Christian convert and that, as a result, she would be at risk on return to Iran.
5. The appellant sought permission to appeal to the Upper Tribunal. Initially, permission was refused by the First-tier Tribunal but on 6 September 2017, the Upper Tribunal (UTJ Kekić) granted the appellant permission to appeal.

The Appellant's Submissions

6. Mr Howells, who represented the appellant focused the appellant's challenge (as set out in the grounds of appeal) on two issues which he developed in a skeleton argument and in his oral submissions. Both grounds sought to challenge the judge's adverse credibility finding.
7. In relation to the first ground, Mr Howells submitted that the judge's reasoning was unsustainable and perverse when concluding that certain aspects of the appellant's account were implausible. He specifically relied upon three paragraphs in the judge's determination.
8. First, he submitted that at para 16 the judge had found it implausible that the appellant would, in travelling to the UK, not have known her identity or nationality in her travel documents including her passport. He submitted that the appellant's evidence in her screening interview (at page A10 of the bundle) was that the documents had been held by an agent and that she had been travelling on a false passport which she had not seen. Mr Howells submitted that the judge had failed to deal with the explanation and it was irrational to find this aspect of her evidence implausible. Mr Howells pointed out that the judge had found this reason to "strike at the

root of the credibility of her account” and so undermine significant the judge’s adverse credibility finding.

9. Secondly, Mr Howells submitted that at para 17 the judge had found it improbable that the appellant’s mother would have been left unattended by the Iranian authorities, following the raid on the family home, in order to allow the appellant’s mother to warn the appellant. Mr Howells submitted that it was clear from the appellant’s evidence (at page B19 of the bundle at question 99) that the appellant’s mother had made the phone call after the authorities had left the family home. There was, he submitted, nothing inherently implausible in that.
10. Thirdly, Mr Howells relied upon para 22 in which the judge had found that it was implausible that the appellant had converted to Christianity as a result of learning that prayers had allowed a young woman relative to recover from a coma. There was, Mr Howells submitted, nothing inherently implausible in that. Mr Howells referred me to the well-known cases of HK v SSHD [2006] EWCA Civ 1037 and Y v SSHD [2006] EWCA Civ 1223 which cautioned against finding a person not to be credible based upon inherent improbability without having regard to the particular cultural circumstances.
11. Mr Howells submitted that cumulatively the effect of these three core findings was to undermine fatally the judge’s adverse credibility finding. Mr Howells submitted that, in fact, there were only two other adverse findings made by the judge. First, at para 20 the judge criticised the appellant for wrongly identifying the “two greatest Commandments”. When the appellant’s answer at question 82 of her interview was consulted during the hearing, Mr Mills (who represented the Secretary of State) recognised that part of the answer given by the appellant was in fact not inaccurate, namely to love God with all your being. Secondly, Mr Howells submitted that at paras 24 to 27, the judge gave a further reason for disbelieving the appellant namely that given her limited knowledge of Christianity in the short term since her conversion, it was inherently implausible that she would evangelise to other people. Mr Howells drew my attention to a letter at page 9 of the appellant’s bundle from a D M Saddler dated 21 January 2017, and a member of her claimed church in the UK, that stated that the appellant had “witnessed her faith” to two friends. The Appellant had, Mr Howells submitted, been talking about her faith and not evangelising in the way that the judge was contemplating in paras 24-27 based upon a premise that she had sufficient knowledge to do so.
12. Mr Howells submitted that even if these two latter findings were sustainable they did not outweigh the perversity of the others which, he submitted, led to a judge reaching a flawed adverse credibility finding.
13. In his second ground, Mr Howells submitted that the judge had adopted a wrong approach to credibility. She had, he submitted, not engaged with the appellant’s oral evidence and interrogated it as to whether it was

internally inconsistent, whether the appellant had stood up to cross-examination and, in effect, the judge had made no assessment of the appellant's oral evidence at all. Likewise, he submitted that the judge had failed properly to take into account the supporting evidence from a pastor and a reverend at the appellant's claimed church, as well as that of Mr Saddler, which was potentially corroborative of the appellant's evidence that she was a Christian convert. Instead, the judge had concluded, in para 29, that that evidence could not be given any weight.

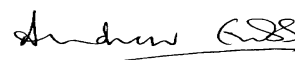
The Respondent's Position

14. Having heard Mr Howells' submissions, Mr Mills on behalf of the Secretary of State accepted that the judge's decision could not stand. He accepted that ground 1 was established, namely that the judge had been wrong to conclude certain aspects of the appellant's account were implausible. In particular, Mr Mills accepted Mr Howells' submissions in relation to paras 17 and 16 of the judge's determination which I have set out above. He accepted that given the limited reasoning of the judge, once these matters were accepted to be flawed, the adverse credibility findings as a whole could not be sustained. He accepted that the judge's decision should be set aside and the appeal be remitted to the First-tier Tribunal for a re-hearing.

Decision

15. On the basis of Mr Mills' concession in relation to ground 1, I accept that the judge materially erred in law in reaching an adverse credibility finding and rejecting the appellant's account. In substance, I accept Mr Howells' submissions in relation to ground 1. The judge's reasoning, particularly in paras 16 and 17 is unsustainable and fatally flaws her adverse credibility finding. It is not necessary, therefore, to reach any view on ground 2.
16. Consequently, I am satisfied that the First-tier Tribunal materially erred in law in dismissing the appellant's appeal. The decision of the First-tier Tribunal is set aside.
17. The appeal is remitted to the First-tier Tribunal for a re-hearing *de novo* before a judge other than Judge A D Baker.

Signed



A Grubb
Judge of the Upper Tribunal

23, March 2018