



**Upper Tribunal
(Immigration and Asylum Chamber)
PA/13218/2016**

Appeal Number:

THE IMMIGRATION ACTS

Heard at Bradford

On 10th April 2018

Decision & Reasons

**Promulgated
On 01st May 2018**

Before

DEPUTY UPPER TRIBUNAL JUDGE D E TAYLOR

Between

NS

(ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Hussain, instructed by Bankfield Heath Solicitors
For the Respondent: Mr McVeety, Home Office Presenting Officer

DECISION AND REASONS

1. This is the appellant's appeal against the decision of Judge Grant made following a hearing at Bradford on 28th April 2017.
2. The appellant is a citizen of Iran and claimed asylum on 22nd January 2015 on the grounds that she would be persecuted on a return to Iran because she had converted from Islam to Christianity.
3. The respondent initially accepted that the appellant was a Christian but argued that she had been a Christian from birth and therefore would not be at risk on return. The appellant appealed against that decision and her case came before Judge Birkby on 12th June 2015. He did not accept that

the appellant was a Christian at all, finding that she was brought up as a Muslim, and that her claim was a complete fabrication.

4. The appellant then made a fresh application and was refused in a letter dated 10th November 2016. In that letter the respondent adopted the conclusions of Judge Birkby, maintaining that the appellant was and has been at all material times of the Islamic faith.
5. Judge Grant noted that the appellant's claim had been roundly dismissed by Judge Birkby. She said that the appellant was cynically trying to use a conversion to Christianity to further her claim to remain in the UK. She said that in reaching her conclusion she had taken into account evidence of a psychotherapist and trauma specialist and three witnesses who had given evidence on her behalf.
6. It was argued before Judge Grant that the appellant would be at risk on account of her social media posts, which showed that she was a Christian convert. Judge Grant however found that the pages were not genuine, since the appellant had used a different name, and that she probably had her own genuine Facebook account, which would have no mention of Christianity.
7. The appellant sought permission to appeal on the grounds that the judge had erred in law in respect of the social media evidence, indulging in speculation and failing to apply AB and Others (internet activity – state of evidence) Iran [2015] UKUT 257.
8. It was also argued that the judge had made no attempt to evaluate the oral evidence of three church witnesses and that the determination lacked a close and anxious scrutiny failing to take into account material evidence.
9. At the hearing Mr Hussain relied on his grounds and Mr McVeety defended the determination. Mr McVeety submitted that the judge's conclusions were ones which were open to her. The judge was entitled to conclude that the Facebook accounts, in a different name, would pose no difficulty for the appellant. The judge's starting point was the adverse credibility findings of Judge Birkby, which could not be relitigated. The appellant was putting forward essentially the same case before Judge Grant as she had before him. It was open to Judge Grant to conclude that the passage of time did not materially alter the appellant's case, particularly since the church witnesses could only reasonably give their opinion of the sincerity or not of the appellant's faith which could not be objectively proved.

Conclusion

10. I accept Mr McVeety's submissions with respect to the social media point insofar as it was open to the judge to conclude that they would not prove a risk to the appellant on return because they were in a different name. Moreover, if the judge's findings that the appellant had used a Christian conversion as a cynical ploy were sustainable, it would not be unreasonable for the appellant to delete the Christian postings on her accounts since she could not rely upon an untruth to establish her case. HJ (Iran) protects an appellant from lying about matters which are an intrinsic part of a person's character, such as sexuality or indeed religious

faith. However, if the appellant is not in fact a Christian convert there can be no objection to her removing any offending posts. Moreover, if the judge's findings were sustainable, they would be most unlikely to come to the attention of the authorities in Iran since they are in a different name.

11. However, I am persuaded that the judge has not adequately dealt with the substantial body of evidence which was before her in support of the claim put forward by the appellant.
12. Judge Birkby's findings are unambiguous and highly critical of her. He heard evidence from one of the witnesses who also appeared before Judge Grant. However, Judge Birkby dealt with that evidence by making the reasonable point that he had only known the appellant for a few months at that stage. By the time of the hearing before Judge Grant he had known her for over two years.
13. Judge Grant makes no reference to his evidence. Neither does she engage with the evidence of the two other witnesses. Moreover, there are a large bundle of letters written in support of the appellant's claim including letters written by the priest and assistant priest at the church where she worships. The letters are extremely detailed giving extensive evidence of the appellant's activities both with the church and in undertaking courses and attending conferences.
14. I am satisfied that in fact the appellant provided a large body of evidence to Judge Grant which had to be considered in some detail and which was not adequately considered.

Notice of Decision

Accordingly I am satisfied that Judge Grant erred in law by failing to take into account all of the relevant evidence. Her decision is set aside. It is remitted to the First-tier Tribunal and must be reheard there at Bradford on a date to be notified before a judge other than Judge Grant.

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 her or any member of her 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.

Deborah Taylor

Signed
Deputy Upper Tribunal Judge Taylor

Date 30 April 2018

