



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: PA/02519/2018

THE IMMIGRATION ACTS

Heard at Field House
On 6 February 2019

Decision & Reasons Promulgated
On 18 February 2019

Before

DEPUTY UPPER TRIBUNAL JUDGE SYMES

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

AP

(ANONYMITY ORDER MADE)

Respondent

Representation:

For the Appellant: Ms S Walker (Senior Home Office Presenting Officer)

For the Respondent: Ms M Harris (for Elder Rahimi Solicitors)

DECISION AND REASONS

1. This is the appeal of the Secretary of State against the decision of the First-tier Tribunal (Judge Scott) of 22 November 2018 allowing the appeal of Mr AP, a citizen of Iran, itself brought against the refusal of his asylum claim of 6 February 2018. I have anonymised the names of the Respondent and his wife and other material witnesses.

2. Mr AP's asylum claim involved his conversion to Christianity in Iran. Taking the starting point from the summary in the refusal letter, he had been dissatisfied with the Islamic religion. He was introduced to Christianity by his friend Mr M and attended three house church sessions with him. From 18 December 2015 he considered himself to be a Christian. He introduced his wife, Ms PR, to the faith, and she had attended church with him. His conversion was discovered when a colleague and work made a complaint that Mr AP and Mr M had been evangelising. The Iranian authorities had searched for him since 14 February 2016, visiting his own home, and the houses of his father and father-in-law. He feared being sentenced to death for apostasy on a return to Iran.
3. The Secretary of State accepted his claim to be an Iranian national and to have been born into the Shia Muslim faith, and that conversion from Islam to another religion was a criminal offence. However, the asylum claim was not accepted as credible, because
 - (a) Mr AP's explanation for his dissatisfaction with Islam was considered vague and unclear;
 - (b) His account of having been introduced to and converting to Christianity having attended only three house church meetings was found implausible;
 - (c) His claim to have come to the attention of the authorities due to a complaint at work over evangelising was unsubstantiated and there was nothing to suggest compromising material had been found when the authorities came looking for him;
 - (d) There was an inconsistency in relation to attending church in the UK and his baptism in this country;
 - (e) The level of knowledge he displayed at interview was basic and general.

The appeal below

4. Mr AP provided a witness statement and gave oral evidence before the First-tier Tribunal, in which he explained his account further. He had developed a long-standing disillusionment with Islam, which he considered the Iranian regime used to justify repression, and he was forced to pray in Arabic, a language he did not understand, preventing any degree of connection with God. When he practised Islam he felt he was merely going through the motions, whereas the more he learned about Christianity, the happier he became. Mr M had vouched for Mr AP as a good friend when he attended the house church, and he embraced the faith thereafter; he dated his conversion as from 18th December 2015.
5. Shortly thereafter he and his wife married, in an Islamic ceremony, as a Christian one was not feasible. He had not been asked at interview whether any Christian materials might have been found when his house was raided; in fact he had received some notes from the house church and he thought it likely these had been seized in the raid. He had travelled to the UK on a false passport provided by an agent to depart Iran.

6. He and his wife had been warmly received at the Baptist church in Cardiff, and found worshipping openly there to be a wonderful experience; there were many other Farsi speakers there. Some baptisms were due to take place shortly after they joined the congregation, and following discussions with Reverend Rees of that church, it was agreed that given they already had a good knowledge of Christianity, they could be baptised during the six-week Bible study course that normally preceded baptism, which proceeded on 27 March 2016.
7. In April 2016 they were moved by NASS to Dagenham, where they started to attend a different church, where they were no other Iranians making integration there difficult; nevertheless they attended every Sunday and helped out in any way they could. Following their move to Dagenham, Reverend Rees provided Mr AP with a copy of his baptism certificate, signed and re-dated to confirm its genuineness.
8. From June 2017 he attended St Elizabeth's church, where there were many other Farsi speakers; his wife did not attend with him as her health had deteriorated, and it was further from their home. He shared details of the service with her upon returning home from church; they would worship together at home.
9. The Reverend Hanna, Vicar of St Elizabeth's church, gave evidence, having written a letter of 18 March 2018, explaining that St Elizabeth's was an evangelical Christian church, and that he himself was familiar with Muslims and Islam, hosting discussion evenings between the faiths. Mr AP had regularly worshipped at his church for over a year, having previously worshipped at a church closer to his house with fewer Iranians; the Minister, Reverend Rees, was well known to him. Reverend Hanna was satisfied that the Appellant was a genuine Christian, from his prayers and his relationship with others at the church; he did not believe he could have been hoodwinked into so thinking, given the evidence he had seen of the Appellant's love for the Lord Jesus, his concern to live rightly and his desire to know more.
10. Mr AP's wife Ms PR gave evidence, confirming the details of her own health problems and describing their worship at home. She explained that she had worked in the same department at the airport as Mr AP had done. She knew he had converted to Christianity before their marriage. She accepted his faith, and had become interested in it herself, attending the house church with him and over time becoming a believer too.
11. The First-tier Tribunal noted the evidence before it, including supporting evidence by way of a letter from Reverend Mike Reith, the Minister of the first church the Appellant had attended in Dagenham, stating the Appellant to have been a genuine and committed congregation member, and a baptism certificate from the Reverend Rees, recording Mr AP's baptism on 27 March 2017, signed again on 13 July 2016. It noted that Mr AP's evidence in cross examination was consistent and that whilst section 8 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 had been relied on by the Secretary of State, Mr AP had given an adequate explanation of his need to rely on an agent, and had additionally claimed asylum on arrival.

12. The Judge concluded that “Having considered all the evidence, I find that the appellant has maintained a consistent and credible account which is supported by the evidence of his wife and Reverend Hanna. His account is also consistent with, and is supported by, the documents submitted, all of which I find to be reliable. I am satisfied, therefore, to the appropriate lower standard of proof, that the appellant's story is true in all material respects.”
13. Based on that finding, credibility being the only matter in issue, the Tribunal accepted that Mr AP was a Christian convert. Such individuals, if they who lived openly in Iran, would be liable to persecution. The Judge did not believe that Mr AP would evangelise openly on a return to Iran; it was more likely that he would be discreet. That discretion would be borne of his fear of persecution. Thus he had a well founded fear of persecution for religious reasons. There was no question of obtaining protection from the authorities given the nature of the Iranian state.
14. The Secretary of State lodged an appeal on 27 November 2008, arguing that no reasons were given for the First-tier Tribunal’s conclusions that Mr AP had maintained a consistent and credible account, citing *MK (Pakistan)* for the proposition that reasoned findings were essential where oral evidence was found incredible, and *Budhathoki* for the proposition that whilst not all evidence needed to be addressed, it was essential to identify and resolve the key evidential conflicts and explain their reasons for preferring one case to the other.
15. Permission to appeal was granted by the First-tier Tribunal on 13 December 2018 on the basis that the extremely brief content of the credibility conclusions rendered the grounds arguable.
16. Before me, Mr Walker relied on the grounds of appeal, emphasising that the First-tier Tribunal decision had been concise in the extreme in the approach taken to the assessment of credibility. In response Ms Harris argued that this was a case where credibility had been rejected for reasons of plausibility rather than inconsistency, and when addressing such a basis for refusal the necessary reasoning would inevitably be somewhat shorter than when detailing various aspects of evidence that were considered discrepant. All the relevant evidence had been set out, Section 8 of the 2004 Act had been addressed by reference to the Appellant's explanation for his use of a false document, and the Judge’s thinking was clear to the reader. In short, he had heard credible evidence from a Minister of the Church as to the Appellant's religious convictions, and he had considered his credibility findings in the context of the documentary evidence as a whole. That level of reasoning sufficed.

Findings and reasons

17. The authorities recognise that reasons must be given for both the determination of the appeal and the material findings of fact upon which that decision is based, in sufficient detail to “enable the reader to know what conclusion the decision maker has reached

on the principal controversial issues”: see Lord Bridge in *Save Britain’s Heritage v No 1 Poultry Ltd* [1991] 1 WLR 153. As stated by the President in *Shizad* [2013] UKUT 85 (IAC) §10: “reasons need not be extensive if the decision as a whole makes sense, having regard to the material accepted by the judge”.

18. In *Budhathoki (reasons for decisions)* [2014] UKUT 00341 (IAC) the Upper Tribunal states:

“It is generally unnecessary and unhelpful for First-tier Tribunal judgments to rehearse every detail or issue raised in a case. This leads to judgments becoming overly long and confused and is not a proportionate approach to deciding cases. It is, however, necessary for judges to identify and resolve key conflicts in the evidence and explain in clear and brief terms their reasons, so that the parties can understand why they have won or lost.”

19. The headnote to *MK Pakistan* [2013] UKUT 641 (IAC) states:

“(2) If a tribunal finds oral evidence to be implausible, incredible or unreliable or a document to be worth no weight whatsoever, it is necessary to say so in the determination and for such findings to be supported by reasons. A bare statement that a witness was not believed or that a document was afforded no weight is unlikely to satisfy the requirement to give reasons.”

20. So there can be no doubt that significant credibility findings require some degree of reasoning. However, in the specific context of *acceptance* rather than *rejection* of a witness’s evidence, it is useful to refer to the approach taken in the higher courts in onwards immigration appeals turning on credibility assessment. A number of senior judges have indicated that the duty to give reasons for accepting oral evidence can, at least in some circumstances, be somewhat lighter than when rejecting evidence.

- (a) For example Buxton LJ in *RH (Ghana)* [2007] EWCA Civ 640 stated §14 that “it is not required of a tribunal of fact, particularly one that has heard witnesses, to say more than that it fully accepts the evidence of the one witness.”
- (b) Toulson LJ in *JK (Democratic Republic of Congo)* [2007] EWCA Civ 831 §31 wrote that “The degree of reasoning required to support a finding of fact must depend on the circumstances. If a judge disbelieves a witness in evidence, he must obviously state why he disbelieves it. If he believes a witness's evidence, there may be not much more that the judge can say than to refer in summary to the main points advanced to the contrary, together with the witness's response to them, in order to show that the judge has considered them, and to express his conclusion that he finds the witness to be credible.’
- (c) Buxton LJ in *Tarlochan Singh* (5 July 1999; IATRF 1999/0055/4) stated, of an appeal onwards from the old Immigration Appellate Authority where the appeal Tribunal had found the first instance decision maker’s concisely expressed acceptance of a witness’s credibility to be insufficient: “The approach of the

Immigration Appeal Tribunal, I have to say with respect, to some extent presents the matter in a way that undermines and gives insufficient weight to the adjudicator's assessment of Mr Singh as a witness. To complain that no reasoned basis was given for preferring Mr Singh's evidence on those points really misses the point. The adjudicator was entitled to say that he accepted Mr Singh's evidence because, looking at the case as a whole, he found it credible. So far as reasoning is concerned, it is difficult to see how much further he could have gone."

- (d) In *Allport v Wilboram* [2004] EWCA Civ 1668 (cited in *MK (Pakistan)*), Neuberger LJ (as he then was) stated §44-45:

"... it is frequently difficult to explain wholly satisfactorily why one rejects or accepts one particular piece of evidence, or the evidence given by one particular witness, while accepting another ... a judge sometimes has no real alternative but to decide which version of events is inherently more likely, or which of the two witnesses appears to him to be inherently more believable."
"

21. The foregoing sets the scene for considering the adequacy of the First-tier Tribunal's reasoning. This is not a case where the Judge simply accepted the asylum seeker's account without more. He stated that his account was consistent, and was supported by the evidence of the live witnesses, his wife and Reverend Hanna, as well as the documentary evidence.
22. So the merits of the Secretary of State's challenge depends squarely on the nature of the refusal reasons which confronted the First-tier Tribunal, as set out above. Neither the grounds of appeal nor Mr Walker before me suggested that the First-tier Tribunal did any disservice to the Home Office's refusal letter when summarising it.
23. Those refusal reasons largely refer to questions of perceived plausibility and vagueness; there is a single reference to discrepancy, which when one goes to the original refusal letter, transpires to relate partly to an "internal discrepancy" said to be "unreasonable" but which is in substance a matter of plausibility, viz that Mr AP's UK baptism took place with surprising speed following his arrival in the UK. The other aspect of "discrepancy" was a reference to the difference between the date of issue of the baptism certificate as opposed to the rather later date of Reverend Rees's signature upon that document. These were both matters that were explained in far greater detail in the witness statement and oral evidence before the First-tier Tribunal than before the Secretary of State, and it seems to me that it was here difficult to see what more the Judge could have done than to simply say he accepted those explanations. As to the alleged vagueness in the Appellant's account of his journey to Christianity or of the tenets of the faith, this criticism rather fell away given the significant detail in the witness statements combined with the endorsements of his faith's credibility from Ministers of UK-based churches.

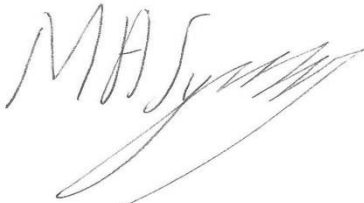
24. I do not consider that the authorities cited in the grounds are inconsistent with this analysis. True it is that *MK (Pakistan)* stresses that reasoned findings were essential where the credibility of oral evidence is rejected, but that requirement is recognised by the Court of Appeal authorities, which then go on to differentiate the situation where evidence is accepted, particularly on plausibility grounds. It seems to me that the Judge's acceptance of the detailed explanations given for the matters considered vague or implausible meets the standard of reasoning required by *Budhathoki*.
25. So in conclusion I do not accept that the First-tier Tribunal made any material error of law.

Decision:

The decision of the First-tier Tribunal contains no material error of law.
The appeal is dismissed.

Anonymity Order

I make an anonymity order under Rule 14(1) of the Tribunal Procedure (Upper Tribunal) Rules 2008 prohibiting the disclosure of any information or matter likely to lead members of the public to be able to identify the Appellant.



Signed:
Deputy Upper Tribunal Judge Symes

Date: 6 February 2019