



**Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: PA/03007/2019**

THE IMMIGRATION ACTS

**Heard at Manchester
On 8 August 2019**

**Decision & Reasons Promulgated
On 15 August 2019**

Before

DEPUTY UPPER TRIBUNAL JUDGE ALIS

Between

**MR HAMID REZA AHMADPOUR
(NO ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms Forster, Counsel, instructed by Hasan Solicitors
For the Respondent: Ms Pettersen, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant is a citizen of Iran. He arrived in this country on 21 September 2018 and claimed asylum the same day. The respondent refused his application on 18 March 2019 and the appellant appealed on 29 March 2019 under section 82(1) of the Nationality, Immigration and Asylum Act 2002.
2. His appeal came before Judge of the First-tier Tribunal Turner and in a decision promulgated on 08 May 2019 the Judge dismissed his appeal.

3. Permission to appeal was given by Judge of the First-tier Tribunal Scott-Baker on 12 July 2019 who rejected aspects of the grounds but nevertheless found there was an arguable error in law in the way the Judge dealt with the minister's evidence, her approach to the appellant's attendance at church and how he would behave, if returned, from a religious perspective.
4. A Rule 24 response dated 23 July 2019 opposed the appeal arguing the findings were open to the Judge.
5. No anonymity direction is made.

SUBMISSIONS

6. Ms Forster relied on paragraphs 14-20 of the grounds of appeal. She submitted that regardless of whether the events, described by the appellant were accepted, the Judge had to consider whether the appellant was a genuine convert regardless of where that conversion occurred. There was evidence before the Tribunal from Rev Hough as well as a supporting letter from Rev Livingstone. The Judge misrepresented what Rev Hough had said about previous asylum converts when she recorded that "people stopped attending after being granted status". The Judge also failed to treat the minister as a *Dorodian* witness and consider his expertise and why he was able to give an opinion as to why the appellant is a Christian. In rejecting his evidence, the Judge referred to the minister only having one "one to one" meeting but his letter clearly demonstrated that the level of contact had been for considerably longer.
7. In TF v SSHD [2018] ScotCS CSIH 58 the court stated at paragraph 30, "It would have been surprising if it was claimed that it was possible for him to divine the innermost thoughts of a member of his church or indeed any church" but the Judge erred because she approached the evidence from the starting point that the minister did not know and she held that against the appellant.
8. She further submitted that the Judge placed too much weight on the adverse findings of his activities in Iran when assessing whether he was genuine convert. The fact he was not believed about that issue did not mean his claim to now be a genuine convert should be rejected because of that previous rejection of his account. The fact he may have been dishonest on one matter was not a reason to reject Rev Hough's evidence.
9. Ms Pettersen adopted the Rule 24 statement and opposed the appeal. The Judge noted that not all asylum claimants, whom the minister had supported, had continued to attend church but then takes that issue no further. The Judge had to decide whether the minister was able to give an opinion of the appellant's religious belief, as he did, and had noted his attendance at church was only since November 2018 and was therefore over a five to six month period. Her findings were open to her as there was a lack of detailed contact between the appellant and minister and his

claim to be a genuine convert was not rejected simply because his account of events in Iran was rejected. The Judge gave her own reasons for rejecting his current claim. The Judge went on to consider his Facebook postings and concluded he was not a genuine Christian and so could remove his postings. There would be no pinch point as the Judge found he was not a genuine convert and therefore he would not be questioned on return.

FINDINGS

10. The appellant claimed asylum on the basis he had converted to Christianity in Iran and had continued to follow his religion in this country. The respondent rejected his claim and he appealed that decision.
11. The FTT Judge rejected his account of events in Iran and went onto reject his claim to be a genuine convert in the United Kingdom. The appellant appealed both aspects of that decision but in granting permission Judge of the First-tier Tribunal Scott-Baker limited permission to the question of the Judge's assessment of his activities in this country. No application to appeal the refusal of the Iranian events was made and so this Tribunal is only concerned with the Judge's approach to UK events.
12. Ms Forster submitted the FTT Judge did not follow the approach set out in TF v SSHD and argued that the Judge drew incorrect conclusions from the evidence, failed to attach the appropriate weight to Rev Hough's evidence and placed too much weight on the findings of his activities in Iran.
13. The undisputed facts are that after arriving in this country in September 2018 the appellant started attending the church in Stockport from around November 2018. The Judge was provided with letters from Rev Livingstone (associate minister) and Rev Hough (minister) and she also took oral evidence from both the appellant and Rev Hough. Both ministers had confirmed he was a regular attendee at church and took part in learning sessions. Rev Hough recognised that if someone was intent on deception it can be difficult to be satisfied that person is a Christian but whilst it was not possible to look into the heart of another person it was nevertheless possible to observe the person's behaviour and the outward signs of their inner faith.
14. In considering the appellant's claim, the Judge noted in paragraph [41] of her decision the appellant's claim and the evidence of Rev Hough. Ms Forster submitted the Judge had misrepresented the minister's evidence when she wrote, "I got the impression, however, that a number of people supported in asylum claims would stop attending church after being granted status" but after considering the statements and evidence recorded in the decision I am satisfied there was no such error. The minister was asked what happened to people who he had supported in appeals such as this and he stated that some had continued attending and others had moved to other areas and he went on to say that he kept in touch through the "network of the church" with some of them. The

minister clearly told the Judge that some did not continue attending and her finding in paragraph [41] (last sentence) does not misrepresent the evidence given.

15. The Judge then went onto consider what the Minister had to say in paragraph [42] of her decision and Ms Forster submitted that the Judge's finding "he was, in my view, unable to distinguish being Christlike as opposed to just being a genuinely nice person" amounted to an error in law. However, this finding must be looked at alongside paragraph [43] as it is in this paragraph the Judge considered the minister's evidence in more detail and how it affected this aspect of the appellant's claim.
16. Ms Forster submits that the Judge's finding "I did not accept the Reverend could truly give evidence about the appellant's intention and motivation having only had one 1-2-1 meeting with him in readiness for the appeal" is flawed because the finding failed to take into account the minister saw him every Sunday and at learning sessions. This point has some merit as does the submission that the minister was being criticised for saying "it was not possible to look into the heart of another person" because the minister was only saying what he could. The evidence of the minister is an important and essential part of any assessment of the genuineness of his commitment to Christianity. Case law stresses the importance of *Dorodian* witnesses, and I am satisfied the approach of the Judge to this minister's evidence was flawed for the reasons set out above. The Judge's conclusion in paragraphs 47 reflected her assessment of Rev Hough's evidence and having identified an error in approach I accept there is an error in law. I therefore set aside the decision as hereinafter set out.
17. I feel that in order to properly conclude these proceedings there needs to be further evidence from the minister and from the appellant himself but only with regard to his UK activities. The findings made by the FTT Judge about his activities in Iran are not undermined by the error as those findings were not challenged today and were upheld on an error of law application.
18. Under Section 12 of the Tribunals, Courts and Enforcement Act 2007 I remit this matter back to the First-tier Tribunal for them to deal with whether the appellant's UK activities engaged the Refugee Convention and article 3 ECHR.
19. I preserve paragraphs 32 to 40 of the FTT decision.

NOTICE OF DECISION

20. There is an error in law and I set aside the decision and remit the matter back to the First-tier Tribunal to be heard by a Judge other than Judge of the First-tier Tribunal Turner.
21. The only issues that the First-tier Tribunal need concern itself with is whether the appellant is a genuine Christian convert based on his

activities in the United Kingdom and whether returning him would breach the Refugee Convention and article 3 ECHR.

Signed

Date 08/08/2019

A handwritten signature in black ink, appearing to read 'SPALIS', with a horizontal line underneath.

Deputy Upper Tribunal Judge Alis