



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: PA/00319/2020 (V)

THE IMMIGRATION ACTS

Heard Remotely at Manchester CJC  
On 17 December 2020

Decision & Reasons Promulgated  
On 12 January 2021

Before

UPPER TRIBUNAL JUDGE PICKUP

Between

YG

(ANONYMITY ORDER MADE)

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

DECISION AND REASONS (V)

For the appellant: Mr H Saddique, Adam Solicitors

For the Respondent: Mr C Bates, Senior Presenting Officer

This has been a remote hearing which has been consented to by the parties. The form of remote hearing was video by Skype (V). A face to face hearing was not held

because it was not practicable and all issues could be determined in a remote hearing. At the conclusion of the hearing I reserved my decisions and reasons, which I now give. The order made is described at the end of these reasons.

1. The appellant, who is a national of Iran with date of birth given as 11.9.87, has appealed with permission to the Upper Tribunal against the decision of the First-tier Tribunal promulgated 27.3.20 (Judge Fox), dismissing on all grounds her appeal against the decision of the Secretary of State, dated 11.12.19, to refuse her further representations made on 29.10.19 in support of a claim to international protection on the basis of being a convert from Islam to Christianity.
2. Permission to appeal to the Upper Tribunal was refused by the First-tier Tribunal on 28.4.20. However, when the application was renewed to the Upper Tribunal, Upper Tribunal Judge Finch granted permission on 8.8.20, considering that Judge Fox failed to take into account more recent case law on Dorodian witnesses and *“failed to explore the reasons given by the appellant for previously attending Roman Catholic and Mormon services. In addition, he failed to adopt a holistic approach to the evidence relied upon by the appellant and placed undue weight on the status of those officiating at her present church. As a consequence, there were material errors of law in First-tier Tribunal Judge Fox’s decision and it is appropriate to grant permission to appeal.”*
3. With respect to Judge Finch, the question whether there is a material error of law in the decision of the First-tier Tribunal is a matter for me to determine and the grant of permission should have confined itself to consideration as to whether there was an ‘arguable’ error of law in the making of the decision.
4. I have carefully considered the decision of the First-tier Tribunal in the light of the submissions and the grounds of application for permission to appeal to the Upper Tribunal.
5. At the outset of the hearing I disclosed to the representatives that I am very familiar with one of the three faiths with which the appellant claims to have been involved, namely, The Church of Jesus Christ of Latter-day Saints, colloquially known as the Mormons. No objection was taken to my continuing to determine the appeal.
6. The relevant background can be summarised as follows. The appellant previously claimed asylum in The Netherlands in 2005. However, the claim was refused and she was returned to Iran in 2006. Some 8 years later, the appellant arrived in the UK on 18.9.14, accompanied by her husband and their two children. With the appellant and their children as dependents, he immediately made a protection claim, based on alleged Christian conversion to The Church of Jesus Christ of Latter-day Saints, which claim was rejected by the respondent on 27.2.15. His subsequent appeal was also dismissed by the First-tier Tribunal on 12.12.16.

7. The appellant then made her own claim for international protection on 17.8.15, with her husband and their children as her dependents, relying on the same grounds of religion and membership of The Church of Jesus Christ of Latter-day Saints. The respondent refused this claim on 26.6.17. Her subsequent appeal was also dismissed in the decision of the First-tier Tribunal promulgated on 22.9.17 (Judge Malik). On 28.3.18, the Upper Tribunal dismissed her appeal against Judge Malik's decision. It follows that there has been no successful challenge to the finding that the appellant was not a genuine Christian convert.
8. Pursuant to the *Devaseelan* (Second Appeals - ECHR - Extra-territorial Effect) Sri Lanka [2002] UKAIT 00702 principle, Judge Fox considered the confirmed findings of this previous decision (Judge Malik) as the starting point for assessment of the appellant's most recent claim on the same grounds of religion, lodged on 30.10.19. On this occasion, the appellant claimed to have converted to the Evangelical Faith in July 2017. It is the refusal on 11.12.19 of this renewed protection claim based on this change of faith, that is the subject matter of the impugned decision of the First-tier Tribunal dismissing the appellant's appeal.
9. I am satisfied that there was no error on the part of the First-tier Tribunal in relying on *Devaseelan* and the previous negative credibility findings as the starting point. Judge Malik noted that the appellant claimed to have attended the Catholic Church and to have converted to Christianity within 2 months of arriving in the UK in September 2014, but failed to provide any supporting evidence of such attendance. In February 2015 she claimed to have met Mormon missionaries and was baptised into that faith on 28.3.15. Judge Malik found the timing of the appellant's claim undermining of credibility, only applying after her husband's claim was refused. Finding the appellant ignorant of the Mormon faith, Judge Malik comprehensively rejected the Christian conversion claim. Mr Bates pointed out that the appellant has adduce no further evidence to undermine the findings of Judge Malik. There was, therefore, no basis for Judge Fox to depart from those findings. What had to be considered was whether, in the light of those adverse findings, the appellant's most recent claim to have converted to yet another faith was credible.
10. In summary, although she did not pursue any organised religion in Iran, and had no interest in Christianity, at various stages since arriving in the UK the appellant has claimed to be a Roman Catholic, a member of the Church of Jesus Christ of Latter-day Saints and, more recently, shortly after failing to persuade the Tribunal that she was a convert to the Mormon faith, began to attend and now claims conversion to and baptism in the Evangelical faith (the Gorton Evangelical Church). All three are very different and distinct branches of the Christian faith with different doctrine and no satisfactory explanation for the change or of any understanding of the different doctrines has been provided. I am satisfied that the judge was entitled to consider this history as itself undermining of the

credibility. Further undermining of credibility was the timing of her claims and the fact that whilst pursuing an appeal heard on 4.9.17, based on claimed adherence to The Church of Jesus Christ of Latter-day Saints, she now claims that she had in fact by that stage already left that faith and had been attending the Gorton Church since July 2017. She did not disclose this fact to the First-tier Tribunal in 2017 and effectively was dishonest in her evidence before the Tribunal. Judge Fox was entitled to regard this also as undermining of the appellant's credibility.

11. Between [42] and [57] the First-tier Tribunal Judge assessed the evidence of conversion to Christianity relied on by the appellant. The judge found the witnesses in support, including the appellant herself, and the other evidence relied on unpersuasive to the lower standard of proof and deserving of little weight. In the circumstances the appeal was dismissed, the judge noting at [58] that article 8 was not relied on.
12. The grounds assert that the appellant's evidence was 'dismissed' on the single basis that she knew little about Lent despite the fact that the church leader attending court confirmed that Lent was not practised in the Evangelical Church. Criticism is also made that the judge erred by relying on the fact that the Gorton church (Evangelical faith) did not have an ordained minister. It is asserted that a church leader (Julia Knight) did attend and give evidence and her evidence should have been regarded as expert evidence.
13. The grounds are misguided in asserting that the evidence of a lay witness from the appellant's claimed faith should be accorded the same weight as expert evidence. The fact is that even if ordained, such a witness is not an expert and is not deserving of any particularly greater weight than any other witness. In MH (review: slip rules; church witness) Iran [2020] UKUT 00125 (IAC), the Upper Tribunal held that "Written and oral evidence given by 'church witnesses' is potentially significant in cases of Christian conversion (see TF & MA v SSHD [2018] CSIH 58). Such evidence is not aptly characterised as expert evidence, nor is it necessarily deserving of particular weight, and the weight to be attached to such evidence is for the judicial fact-finder."
14. At [41] of that decision, the Upper Tribunal panel stated, "There is no recognised methodology by which the genuineness of an individual's conversion from one faith to another can be measured, nor can that question properly be categorised as belonging to a field of knowledge or science. A witness such as Dr MN believes that an individual has converted to Christianity and they can provide reasons for that belief but there is no established methodology by which they reach that conclusion. Their evidence on this issue (described by Lord Glennie as "Category 3" evidence) should not, in our judgment, be described either as expert evidence or even as "a species of expert evidence", as was submitted by leading counsel for the appellants in TF &

MA: [41] refers. To describe such evidence as expert evidence risks elevating the significance of that evidence unduly. TF held that, active participation in a Christian church was not conclusive evidence of the genuineness of a claimed conversion, but it was 'likely to be a very powerful consideration, to be assessed alongside any other evidence pointing to the sincerity or otherwise of the claimed conversion to Christianity'."

- a. At [58] of TF, the Court disapproved the suggestion of the Immigration Appeal Tribunal in *Dorodian v Secretary of State for the Home Department*, 01/TH/01537, 23 August 2001, at [8(b)], that a Christian conversion must be supported by evidence from a minister of a relevant church. Because different churches followed different traditions, it was wrong to say that the evidence had to come from someone at a particular level in the hierarchy (if any) of the church. What mattered was that the evidence came from individuals with

*"sufficient knowledge of the practices of the church of which they are a member; sufficient experience of observing and interacting with those seeking to become members of the church; sufficient knowledge and experience of others who have gone through similar processes of engagement in church activities with a view to becoming members of the church; and, in cases such as these, sufficient knowledge of the individuals concerned and of the manner in which they have thrown themselves into church activities."*

15. To his credit, Mr Saddique did not pursue the argument in the grounds that Ms Knight's evidence should be regarded as expert evidence. However, he relied on that witness' two letters and what he said was Ms Knight's oral evidence based on his own notes. I pointed out to Mr Saddique that I could not take evidence from him as a witness as to what was said by a witness at the First-tier Tribunal appeal hearing, unless he wished to adjourn and relinquish representation in order to become a witness himself. He did not wish to do that. In the absence of Mr Saddique becoming a witness and in the absence of any ground of appeal on the basis that the judge had inaccurately recorded the witness' evidence, I can only proceed on the basis of what the judge has summarised in the decision of the witness's evidence. I have, however, looked at the two letters referred to, dated 6.10.19 and 6.2.20. As I pointed out to Mr Saddique, whilst Ms Knight speaks favourably of the appellant, neither letter demonstrates that any critical assessment has been made of the appellant's claimed conversion. Neither letter provides the sort of evidence one expects from a 'Dorodian' witness.
16. Although she gave evidence, Ms Knight is not an ordained minister and explained in evidence that the Gorton Church has had no ordained minister for some 7 years. In her letter, Ms Knight described herself as being responsible for the music and leading the worship on Sundays, which I understand to be leading the singing and worship in church, whilst it is her husband who is a member of the "leadership team". Her precise role is rather vague and there is no evidence

that she is involved in assessing conversion of those seeking to become members of the faith, or that any assessment or criteria is applied before membership is granted. Whilst her letter speaks glowingly of the appellant's qualities, it failed to provide any real assessment of the genuineness of her conversion and it is not clear in what way this witness would be qualified to speak of that. The judge's assessment of this witness at [48] of the decision was that she was not credible, "a layperson with no apparent features to distinguish her as an appropriate theologian qualified to receive individuals into any religion," may be couched in rather strong terms but the point remains that it is not clear that Ms Knight has sufficient knowledge and experience of others who have gone through similar processes of engagement in church activities with a view to becoming members to be able to speak as to whether the appellant's professed conversion is genuine. That conclusion is supported by [49], where the judge records that Ms Knight was unperturbed that the appellant began to attend her church shortly after failing to persuade the respondent that she followed the Mormon faith, even though she pursued an appeal on this same basis whilst simultaneously purporting to follow the Evangelical faith. Similar assessments were made of the other supporting witnesses and letters in support, with reasons provided.

17. Whilst the grant of permission referred to R (SA) (Iran) v SSHD [2012] EWHC 2575 (Admin), a decision frequently cited by appellants, the Upper Tribunal panel in MH pointed out at [48] that the comments by Judge Gilbert, sitting as a Deputy High Court Judge, were obiter, adding "We do not understand Gilbert J to have suggested that it is impermissible as a matter of law for a judge who is tasked with assessing a claimed religious conversion to consider anything other than whether the individual is an active participant in the church... Insofar as this paragraph (the one frequently cited by appellants) is relied upon by representatives in support of a submission that active participation in church activities suffices, without more, to demonstrate the truthfulness of a conversion, we do not consider that to be the position. On the contrary, it is entirely permissible for a judge in a case of this nature to turn his mind to a whole range of additional considerations, including not least the timing of the conversion, the individual's knowledge of the faith, and the opinions of other members of the congregation as to the genuineness of the conversion." Those were in fact the considerations made by Judge Fox. Even though she is not an ordained minister, considering the role of Ms Knight and the letters she has written in support, "Incredible" might be too strong a condemnation of the witness, but I am satisfied the judge was entitled to conclude that she was not in a position to speak authoritatively to the genuineness of the appellant's conversion and, therefore, her evidence was deserving of but limited weight.
18. I am satisfied that the judge provided cogent reasons for finding the evidence in support of the appellant's claimed adherence to the Evangelical faith inadequate and insufficient. For example, the pastor presiding over the appellant's baptism

declined to attend the appeal hearing in her support, saying only that he would pray for her. The judge concluded that there had been no meaningful effort to support the appeal.

19. In relation to the judge's assessment of the appellant's knowledge of her most recent faith, criticism is made of the reliance on the appellant's ignorance of Lent. Ms Knight had confirmed in evidence that Lent had been discussed at church but that she had made a conscious (personal) decision not to observe it. The judge noted that the appellant had no awareness of Lent, despite her claims to the contrary. The grounds have not challenged the judge's record that Lent was discussed at the Gorton Church but that Ms Knight made a personal decision not to observe it. It remains unclear what role Lent has in the Gorton Church. However, at [55] of the decision, the judge considered it was reasonable to expect the appellant to at least know of its existence, given the evidence of Ms Knight that it had been discussed at church. The judge considered that Easter, to which Lent relates, "is the most important event in the Christian calendar regardless of the denomination followed." Again, there has been no challenge in the grounds to that statement.
20. The judge did not state that ignorance of Lent was the sole reason for finding the claimed conversion not credible. Read as a whole, it is clear that the judge took into account all of the evidence, including the history of rejected claims, the timing of the claims, the inadequate and limited supporting evidence, and the appellant's own knowledge of Christianity. Whilst a different judge may have reached a different conclusion, I do not accept that the findings of Judge Fox could be regarded irrational or perverse but were open to the Tribunal on the somewhat unsatisfactory evidence adduced on behalf of the appellant.
21. Mr Saddique also submitted that the judge failed to give adequate consideration to the appellant's "own journey away from Islam into Christianity", including some two and a half years attendance at church and involvement in Bible study and more latterly in the "worship team." However, as Mr Bates pointed out, that so-called journey begins with findings of her claim to be a Catholic and then converted to The Church of Jesus Christ of Latter-day Saints to be not credible and not genuine. The journey began with a false claim, continued with dishonesty before Judge Malik - professing one faith whilst allegedly having abandoned that faith and attending an entirely different faith, and continues with no evidence sufficient to disturb those previous findings. Her statement describes how she decided to change from Mormon to Evangelical in faith but in the light of the undisturbed findings of Judge Malik, no credence could be given to that account of her journey. As Mr Bates put it in his submissions, "the witness statement details a move from something previously found not genuine." In the premises, there is no error in the First-tier Tribunal failing to consider the appellant's 'journey' in any greater depth.

22. In the circumstances and for the reasons set out above, I find no material error of law in the decision of the First-tier Tribunal.

### **Decision**

The appeal of the appellant to the Upper Tribunal is dismissed.

The decision of the First-tier Tribunal stands and the appeal remains dismissed.

I make no order for costs.

Signed: *DMW Pickup*

Upper Tribunal Judge Pickup

Date: 17 December 2020

### **Anonymity Direction**

I am satisfied, having had regard to the guidance in the Presidential Guidance Note No 1 of 2013: Anonymity Orders, that it would be appropriate to make an order in accordance with Rules 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 in the following terms:

*“Unless and until a tribunal or court directs otherwise, the appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify him or any member of his family. This direction applies to, amongst others, both the appellant and the respondent. Failure to comply with this direction could lead to contempt of court proceedings.”*

Signed: *DMW Pickup*

Upper Tribunal Judge Pickup

Date: 17 December 2020