



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: PA/09682/2019

Heard at Manchester (via Skype)  
On 22 December 2020

Decision & Reasons Promulgated  
On 14 January 2021

**THE IMMIGRATION ACTS**

Before

**UPPER TRIBUNAL JUDGE HANSON**

Between

AJ  
(Anonymity direction made)

Appellant

and

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr Woodhouse of HS Immigration Consultants.

For the Respondent: Mr Tan Senior Home Office Presenting Officer.

**DECISION AND REASONS**

1. By a decision promulgated on 1 October 2020 the Upper Tribunal set aside a decision of the First-tier Tribunal and gave directions for the future hearing of this appeal which is limited to consideration of whether the appellant's conversion to Christianity is genuine and what risk may arise in relation thereto if returned to Iran.

2. There are a number of preserved findings from the First-tier Tribunal decision in relation to the appellant's immigration history, family composition in the United Kingdom, attendance at a church in Leeds, and his having undergone ceremonies of baptism and confirmation.

## **Background**

3. The appellant is a citizen of Iran who was born on 11 July 1975 who entered the United Kingdom on 24 February 2001.
4. Mr Tan in his submissions referred to two earlier appeals in which claims made by the appellant had been rejected by the First-tier Tribunal.
5. In a determination of 9 May 2008, in relation to an appeal against the respondent's decision of 18 September 2007 to make a deportation order against the appellant, it was noted the appellant had claimed he feared persecution from the authorities in Iran as a result of it being discovered he was supplying and installing illegal satellite equipment. The panel in that case also noted at [14 - 15]:
  14. Within the Appellant's first bundle of documents is a letter from John Marshall, a prison chaplain at HMP Birmingham. The Appellant was one of three Iranian Christians who sought help in learning about Christian beliefs. "[A] had become a Christian prior to being in our prison and possibly as far back as when he was in Iran." He found the Appellant's story of why he left Iran to be "very credible". He met the Appellant once or twice a week and the Appellant was noticeably thirsty for knowledge of the Christian ways.
  15. The Appellant has since his release become part of a Jehovah's Witness congregation. At the hearing Andrew Seal, an elder of the Oldbury congregation, gave evidence on his behalf. No statement had been submitted from him prior to the hearing and accordingly we rose for 20 minutes to allow the Appellant's solicitor time to prepare a handwritten statement. Mr Seal said that his congregation sponsored a Farsi-speaking group. The Appellant started attending meetings four months beforehand and had attended regularly. He had weekly personal Bible study sessions with a member of the congregation who spoke Farsi. He was not however ready to be baptised yet, but this was not unusual. It frequently took some time before a person was ready. There are various stages. Before a person was considered ready to be baptised an assessment was made. Before this, the person would have been an "unbaptised publisher" for some time and until a person was an "unbaptised publisher" they would not be considered as qualified to go out with other witnesses from door to door to talk to members of the public as part of their ministry. The Appellant had not reached this stage yet. He considered the Appellant's involvement to be genuine.
6. In the section of that determination in which the panel sets out its findings it is written:
  31. The Appellant says that he has become a Christian. At his interviews in September and October 2007 said that he was part of the Church of England. Since then however he has sought to claim that he has become a Jehovah's Witness and that on this account he will face persecution upon return to Iran as it is part of his religious obligations to convert others to the faith.

32. There are significant and important differences between the practices of the Church of England and Jehovah's witnesses. At his interviews in October and November 2007, although he had some knowledge of the Christian faith, he was often vague in his responses. At the hearing he said that for some time he had been looking for all the "true faith" and there is some suggestion that his interest in religion, for whatever reason, predated his detention although we cannot see in the papers before us that, as at the prison chaplain mentions, he claimed to have been interested in Christianity in Iran.
  33. We have heard the evidence of Mr Seal and accept his sincerity. However, his evidence must be considered in the round with the remainder of the evidence before us. In any event we accept his explanation as to why the Appellant has not been baptised and do not take this fact into account in our assessment of whether he has converted to Christianity.  
  
...
  35. The Appellant claims that his conversion is genuine and that he is under an obligation to tell others about his faith. Despite this, he says that the only member of his family in Iran he has told of his conversion is his mother. He claims that the that he is at risk from his family if they become aware of his conversion but there is no risk to him if he is in the United Kingdom and yet he has not told them of his new faith. The cousin who gave evidence at the hearing did not know anything about the church the Appellant claimed to have joined. This is not an example of the Appellant declining to tell a Muslim member of his family about his conversion for fear of consequences. His cousin was aware of his "Christianity" but not aware of the particular branch. If the Appellant was sincere in his conversion and membership of the Jehovah's Witnesses, even if he was not considered to be qualified to be an "unbaptised publisher", we find that he would have told his cousin, a person to whom he claims to be close, of such an important change in his life.
  36. We have concluded when looking at the Appellant's evidence in the round, his previous fabricated claim, his first claim that he was a member of the Church of England, his poor understanding of the Christian faith as demonstrated at interview, his lack of understanding of the important differences between the Church of England and Jehovah's Witnesses as demonstrated at interview and the fact that he has failed to make it known what he claims are his deep and true beliefs to those nearest and dearest to him, that his present claim to be a Jehovah's Witness is yet a further fabrication. In any event we are not satisfied that he is reasonably likely to proselytise upon return to Iran. As we have said he has not even try to do this in the United Kingdom, where his actions would not meet with any adverse consequences, even to the limited extent of telling those close to him about his new beliefs. He says that his conversion will become known to his family upon return but we cannot attach any credibility to this claim in view of his overall lack of credibility and the lack of any supporting evidence. We do not consider that there are any additional risk factors in his case that would prevent his return and in this respect we take into account the fact that he is likely to have left Iran illegally. He may face questioning in this respect upon return and possibly a period of detention but we do not consider that the evidence is that this will amount to a breach of Article 3 or serious harm.
7. A second decision by another judge of the First-tier Tribunal, Judge Davies, was promulgated on 20 November 2014. This records that following the rejection of the earlier claim in the decision referred to above further submissions were made by the appellant on 4 December 2012 and 9 February 2014 which were accepted as a fresh claim and as an application to revoke the deportation order made previously.
  8. Judge Davies records at [10] the following:

10. It is not necessary to go into that part of the refusal letter that deals with the Appellant's evidence relating to his claim to fear persecution on the grounds of political opinion as it was made clear at the hearing that the Appellant was not pursuing that aspect of his case. In any event if I upheld the Section 72 certificate the Appellant would be unable to do so. The Respondent considered the Appellant's claim that he had converted to Christianity in August 2006 and that he was now the Church of England denomination having found religion whilst in prison. The Appellant was baptised in 2013 and attended a Christian church at St Aidan's, Leeds having first attended there in February 2013. He attended up to the date of his interview.
9. It was also noted in the refusal letter that the appellant claimed to have converted many people to Christianity and stated he would continue to do so if he was returned to Iran
10. In addition to oral evidence from the appellant, Judge Davies had the benefit of oral evidence from church members who were subject to cross-examination as recorded in that decision.
11. Judge Davies upheld the Section 72 certificate. In relation to the question of whether the appellant was a genuine convert, Judge Davies found at [64-73]:
  64. I conclude applying the standard of proof indicated above that the Appellant is not a credible witness and that his claimed conversion to Christianity is not genuine.
  65. His evidence with regard to Christianity and his interest in it contains a number of discrepancies. Having claimed to have become interested in Christianity initially in Iran the Appellant then claims that whilst in prison he resumed his interest and became a Jehovah's Witness. The previous Immigration Judge found that his claim in that regard was a fabrication. It is particularly significant in this appeal that the two persons who have attended the hearing to give evidence as to the genuineness of the Appellant's conversion to Christianity were not aware that the Appellant had previously claimed to be a Jehovah's Witness.
  66. It is also significant that the Appellant did not mention this to the psychiatrist who has presented a report finding that the Appellant has PTSD. None of the witnesses were aware of this fact and it is wholly incredible that the Appellant, who they have clearly taken into their trust, would not reveal this information to them. I conclude he has taken the decision not to reveal that information because it would present in their minds a doubt as to the genuineness of his now claimed conversion to Christianity. I conclude that this is a further attempt by the Appellant to deceive people. It is clear to me that the Appellant's overriding intention throughout his time in the United Kingdom has been to prevent his removal from the United Kingdom.
  67. The Appellant's evidence as to the contact he has had with his family again contains numerous discrepancies. The circumstances which led to him committing the offence of false imprisonment for which he received a sentence of two years again are incredible. The Appellant claims never to have worked in the United Kingdom but was able to amass the huge sum of £14,000 to lend to the person he had subsequently falsely imprisoned. His claims to have borrowed that money from friends but other evidence indicates that it was obtained from his family in Iran. I conclude that the Appellant again has been untruthful in that regard.
  68. The Appellant has been untruthful as to whether he worked prior to his sentence at the Birmingham Crown Court. The judge clearly believed that the Appellant did work as he states in his sentencing remarks. The Appellant's claim that he did not work because he

did not have permission but simply helped friends is again wholly unbelievable and is a further indication of the Appellant's dishonesty.

69. As has been accepted by the Appellant's representative the starting point in this appeal is the findings made by the Immigration Judge in 2008. It is significant that despite, in those proceedings, claiming to fear persecution in Iran on account of his political opinion that that no longer plays a part in the Appellant's case even though he claimed to have been tortured in Iran.
  70. The Appellant had previously fabricated a claim to be a Jehovah's Witness and to have a fear of persecution on account of his political opinion. Whilst his knowledge of Christianity at the previous hearing before an Immigration Judge was not good I find that the Appellant has taken a decision to improve that knowledge by attending Christian churches in Leeds and Darwen. The fact that the Appellant now has more knowledge regarding Christianity than previously does not lead me to conclude he is a genuine Christian convert. It leads me to conclude that he has simply improved his knowledge to assist in his false claim that he is a genuine Christian.
  71. It is of particular concern that the Appellant has attempted to persuade persons connected to the churches he attended that he is a genuine convert. The Appellant's evidence as to his interest in Christianity is at odds with the evidence given by Brother Christopher Martin. The fact that the Appellant did not tell Brother Martin of the circumstances of his previous asylum claim are a clear indication that the Appellant sought to deceive Brother Martin. I make a similar observation regarding the evidence of Anna Catherine Magdalene and in regard to her evidence I note that she has only known the Appellant for some four months.
  72. Whilst I do not doubt the sincerity of the two witnesses who have given evidence before me and the other persons who have provided written evidence I conclude that the Appellant has sought to deceive them into believing he is a genuine Christian convert when that is not the case.
  73. The Appellant is not a genuine convert to Christianity and as such it is not reasonably likely that he will or may be persecuted account of his religion if he is returned to Iran. As the Appellant now puts forward no other reason why he cannot return to Iran his appeal must be dismissed.
12. Judge Andrew in her decision promulgated on 7 January 2020 noted the decisions of the previous judges that the appellant had not rebutted the presumption that he was a danger to the community, meaning the section 72 certificate stood, but was persuaded that the appellant had rebutted the presumption on the basis of the information available to the First-tier Tribunal meaning the section 72 certificate must fall. The appellant was therefore able to argue the Refugee Convention matter in this appeal.
  13. It also recorded that the appellant married his wife, also an Iranian national, on 21 March 2017. The evidence before the Upper Tribunal is that this person has been granted refugee status in United Kingdom on the basis of being a genuine convert to Christianity and the risk she would face on return to Iran.

### **The law**

14. The current country guidance case relating to risks to Christian converts in Iran is PS (Christianity - risk) Iran CG [2020] UKUT 00046 (IAC) which provides

- guidance in the assessment of protection claims from Iranians who claim to have converted from Islam to Christianity.
15. The case sets out the approach in such cases and states: Decision makers should begin by determining whether the claimant has demonstrated that it is reasonably likely that he or she is a Christian.
  16. If that burden is discharged the following considerations apply: (i) A convert to Christianity seeking to openly practice that faith in Iran would face a real risk of persecution. (ii) If the claimant would in fact conceal his faith, decision-makers should consider why. If any part of the claimant's motivation is a fear of such persecution, the appeal should be allowed. (iii) If the claimant would choose to conceal his faith purely for other reasons (family pressure, social constraints, personal preference etc) then protection should be refused. The evidence demonstrates that private and solitary worship, within the confines of the home, is possible and would not in general entail a real risk of persecution. In cases where the claimant is found to be insincere in his or her claimed conversion, there is not a real risk of persecution 'in-country'. There being no reason for such an individual to associate himself with Christians, there is not a real risk that he would come to the adverse attention of the Iranian authorities.
  17. Decision-makers must nevertheless consider the possible risks arising at the 'pinch-point' of arrival: (i) All returning failed asylum seekers are subject to questioning on arrival, and this will include questions about why they claimed asylum (a genuine Christian asked about the basis of his claim for asylum cannot be expected to lie para 111); (ii) A returnee who divulges that he claimed to be a Christian is reasonably likely to be transferred for further questioning; (iii) The returnee can be expected to sign an undertaking renouncing his claimed Christianity. The questioning will therefore in general be short and will not entail a real risk of ill-treatment; (iv) If there are any reasons why the detention becomes prolonged, the risk of ill-treatment will correspondingly rise.
  18. Factors that could result in prolonged detention must be determined on a case by case basis. They could include but are not limited to: a. Previous adverse contact with the Iranian security services; b. Connection to persons of interest to the Iranian authorities; c. Attendance at a church with perceived connection to Iranian house churches; d. Overt social media content indicating that the individual concerned has actively promoted Christianity.
  19. The Upper Tribunal in PS referred to the framework for enquiry to be applied to claims based on sexual orientation set out by Lord Rodger in HJ (Iran) and swapped the word "gay" for the word "Christian" to consider the same analysis and found it to be determinative in the case of Christians who openly worship in this country and who would wish to continue to do so in Iran, but for their well-founded fear of persecution.

### The evidence

20. The appellant submitted a further bundle in support of his appeal including an up to date witness statement. His earlier statements dated 7 March 2018 and 17

December 2019 are also being relied upon. In relation to his current situation the appellant writes:

3. As I have explained, it was when I was in prison that I was introduced to the Jehovah's Witness faith. I have explained in my previous statements how sometime after my release from prison I began to have doubts about the Jehovah's Witness faith and this led me to stopping practising that faith. It has been said that I lied about being a Jehovah's Witness but that is not correct. One thing that Judge Davies questioned in 2014 was why I had not told my church leaders about my previous Jehovah's Witness faith and he said it was to deceive them. In fact there was no particular reason for me not to mention it to them it was just that I did not tell them. I was not trying to hide it because I do not think it is something I should hide.
4. I continued attending at St Aidan's church in Leeds for some time after my 2014 appeal was dismissed however eventually I was forced to leave Leeds because I had nowhere to live. I came to Birmingham around the middle of 2015 and I would stay with different friends in different parts of the city. Around this time I attended different churches depending on where in Birmingham I was staying. This was also around the time I met [N] in Manchester and when I visited her in Rochdale we would go to church together there.
5. I was introduced to Smethwick Old Church in April 2016 and I have been a member of the congregation since that time. I was introduced to the church by a fellow Iranian Christian called Ali Shah Hosseini.
6. The two most important things in my life are my wife [N] and my Christian faith. Our shared beliefs are an important part of our relationship and nothing makes me happier than being in church with [N]. We were both extremely proud to have our marriage blessed in the church on 13 May 2017 and it was very special for both of us to share that occasion with the church leaders and congregation.
7. During the early days of Covid-19 outbreak the church was forced to close and during that time [N] and I practised our faith at home. We were both extremely happy when the church reopened for services and since that time we have attended the services. Of course, things are a bit different to before because of social distancing and because of this I have not carried the cross or helped with serving the wine since the church reopened. Being in church makes me feel relaxed and calm. It is a difficult feeling to describe but it is like being at peace. Before the Covid-19 outbreak we would have regular Bible study gathering at Brother John's house, but these also have not restarted.
8. I live openly as a Christian and I live my life by the Christian values which are important to me. I believe that the values in Christianity, kindness and forgiveness, are an important lesson for how to live a positive life. I try to help people and to be there for them; if I see someone who is upset I tried to comfort them. By being kind and forgiving I have found a calmness within myself and I put this down to my faith.
9. I share my faith with people that I meet. My faith has given so much to me and I want other people to be able to experience that too. I continue to share my faith online through my Facebook profile. I do this because it is a way for me to express my faith and share something that is important to me. I hope that people see the things that I post and that it makes them feel happy and that it makes them want to learn more about Christianity. When I talk to people about Christianity, I tried to explain how it has helped me in my life. I explain how I have been in difficult situations but despite that I can find comfort in my faith.

10. I cannot return to Iran because my life is in danger because I am an open Christian convert. I could never imagine having to hide my faith because it means so much to me. My entire life is in the UK, my wife my church and my friends. All I want is to be able to live a normal life with my wife. I accept that I made a very stupid mistake and it is something that I regret every day of my life. I have never done anything else wrong since that time and I cannot change the past but I am a very different person now. I therefore ask that my appeal is allowed so that I can practice my faith in peace with my wife.
21. In his oral evidence the appellant was broadly consistent in relation to his attendance at the various churches and his Christian beliefs.
22. A witness statement has also been filed by the appellant's wife dated 7 March 2018 in which she confirmed she met the appellant in 2015 in Manchester and that when she moved to Birmingham in 2016 they moved in together. The statements refers to them starting to visit church together and attending Smethwick Old Church every week and taking part in church activities and attending Bible classes.
23. The oral evidence of the appellants wife corroborated the appellants account of their meeting and the development of their relationship, their shared belief in the Christian faith, attendances at services and home prayer, and restated her belief that the appellant's conversion and following of the Christian faith is genuine.
24. The appellant has also provided evidence from church officials, photographs of attending the church with his wife, and screenshots from his Facebook account.
25. The evidence from the church includes a letter from the Rt Revd John Packer, Bishop of Ripon and Leeds, dated 2 January 2014 and addressed to the appellant following a request by the Revd Paul Payton to grant permission to the appellant to administer Holy Communion at Leeds All Souls and St Aidan Church, which was given for a period of five years by the Bishop.
26. A letter from Fr Paul Payton, the Rector of St Aidan's Church in Leeds, dated 18 January 2014, and addressed "to whom it may concern" confirms the appellant's attendance at that church and involvement in what are described as "additional, extended nurture events" and the appellant contributing enthusiastically to discussion and practical faith-based activities. The letter describes the appellant as having "a thirst for learning about the Christian faith and a passion to share this with others".
27. In relation to the appellant's baptism, Father Payton writes:

"As part of his ongoing nurture, Ahmad has been baptised (21/07/13) by myself and confirmed (05/12/13) by Bishop John Packer, Ripon and Leeds) according to the rites and ceremonies of the Church of England, important steps of growth and witness which indicates a sincere and grounded faith. Ahmed's commitment and sincere desire to be actively involved and contributing to the life of the church is indicated by his involvement as an altar server and by being permission by the Bishop to distribute Holy Communion as an Eucharistic Minister. His language skills have allowed him to read publicly at our Epiphany Service in January and before Christmas he formed part of a working party to clean and make ready to church building for Christmas.

We are concerned for Ahmad's welfare and the prospects which lie before him if he were to be deported.



We unreservedly support him in his desire to remain in this country to be free to exercise his faith without fear and to make a positive contribution to society.

28. A letter dated 10 November 2016 from the Rev Mark Coleman, Vicar of St Chad, St Mary's in the Baum and St Edmund, Rochdale Parish Church addressed to the appellant's wife and the appellant confirms that Rev Coleman has known them since October 2015 when they came to worship at his church, St Chad's in Rochdale. The appellant's wife lived in Rochdale at that time and became a weekly attender with the appellant coming less often but being a regular visitor once or twice a month. The letter states the appellant's wife was baptised on 14 February 2016 and was a valued member of the congregation but left to go to Birmingham with the appellant in the early summer, perhaps May 2016. This letter appears to have been written as a reference to support their application to marry.
29. There is also within the bundle a letter from Brother John Hennings, an Anglican Franciscan friar and priest who came to Old Church Smethwick in April 2018 and who is a pastoral assistant working predominantly with asylum seekers and refugees.
30. Brother Hennings states he has known the appellant since he began attending the church although less well than other members as his arrival coincided with the appellant's prolonged period of severe illness and enforced absence from the duties he had previously been performing but that, nevertheless, he found the appellant could be both sincere in his Christian commitment and developed in his attendance at worship. The letter confirms the appellant disclosed to him of his own free will at the first opportunity the fact he had a criminal record but that with the support of his wife and others he had rebuilt his life and become an upright member of the community for which he earned brother Hennings respect.
31. From the Smethwick Old Church there are also a number of letters.
32. The first is from the Rev Michael Goss, who also gave oral evidence, who in a letter dated 28 October 2020 confirmed he had known the appellant since he first began attending Old Church in April 2016. Rev Goss is a member and honorary assistant priest of the church. He states the appellant was introduced to him and his wife by Ali Shah a mutual friend who is also a long-term member of the church. The letter speaks of the appellant's history including criminal conviction, his baptism, and refers to the appellant's wife. Reverend Goss writes *"In all the time we have known him he has been a serious and regular member of our church community and was asked by the vicar, Rev Deb Buckley, to assist her at the Sunday Eucharist as a server/cross bearer. Any absences from Sunday worship have been due mainly to serious ill-health which gave him severe pain and discomfort until two successful kidney surgeries gave him relief from his symptoms"*.
33. The letter also refers to the appellant and his wife praying both in the church and at home including praying for the needs of other people and refers to the appellant's Facebook site. The tone of the letter clearly indicates that in the mind of the Rev Goss the appellant is a genuine Christian convert.
34. A number of letters have also been provided by the Rev Deb Buckley the first dated 3 October 2019. That refers to the appellant's attendance at the Smethwick

Old Church and his baptism at St Aidan's church in Leeds. Rev Buckley writes that in 2017 the appellant expressed his desire to be confirmed and that after a period of preparation both he and his wife were confirmed at the Warley Deanery confirmation service on 9 July 2017. The letter confirms the regular attendance of the appellant and his wife at the church and states they are both actively involved in church life. The appellant is a server and crucify and his wife a chalice assistant. It is also said that in addition they are willing to help out in many other ways. There is reference to the appellant attending weekly Bible study sessions with the Rev Michael Goss at the Birmingham Central Library and a statements that both the appellant and his wife takes their faith very seriously with their desire to follow the way of Jesus Christ being expressed through their involvement with the church rota, their warmth and care towards others and their eagerness to be involved in church life.

35. A second letter, dated 15 December 2019, was specifically written in support of the appellant's asylum claim on the grounds of his Christian conversion. The letter refers to the date the appellant joined the Smethwick Old Church, the disclosure of his criminal conviction by the appellant, regular attendance at the church with the exception of the period the appellant had to undergo kidney surgery, active involvement in church life, repeats the opinion that both the appellant and his wife take their faith seriously, and a statement that in view of Rev Buckley the appellant is a man of integrity whom she would have no hesitation in supporting.
36. A further letter of 24 October 2020 repeats the content of the second letter.
37. A further letter was admitted prior to the hearing, pursuant to Rule 15(2A) of the Upper Tribunal Procedure Rules from the Reverend Buckley in which she writes:

To whom it may concern.

Re: [A] D.O.B. 11.07.75 of []

I am writing to expand on my previous letter dated October 24th 2020 in order to explain more fully why I believe that [A] is a Christian.

I am aware that asylum seekers can take advantage of the church as a way of getting support for their asylum application. I am trusted by the Bishop of Birmingham to ensure that, to the best of my knowledge, this doesn't happen. With this in mind, we have implemented a number of strict policies and procedures at Old Church.

These policies and procedures relate to Baptism, Confirmation and the nature of the roles that people are able to take on in church. In [A's] case he came to us having been Baptized and Confirmed at a Church of England church in Leeds. This alone, however, is not enough to convince us that a person is Christian. Before someone can take on the role of Crucifer, Server at communion or Communion Assistant, myself and the Parochial Church Council, who confirm people in to these specific roles, need to believe that the person in question is sincere about their faith. Discerning this is done over time and through observation and conversation by myself and my ministerial colleagues. The following convinced us that [A] is a Christian:

- [A] and [N] pray together at home as well as in church and they request prayer from the church when they need it, for example when Ahmad was unwell.

- [A] is active on Facebook and is explicit about his faith.
- [A] is hungry to study the Bible and, given that he had prepared for Baptism and Confirmation in another church, he didn't need to seek out opportunities to study the Bible with us, but he did. When attending study groups, he contributes insightfully to discussions and asks pertinent questions.
- [A] was drawn to take on roles that are integral to Eucharistic worship, which again he wouldn't need to do in order to get support for his asylum application.
- [A] and [N] got married at the Register Office but they both wanted their marriage blessed by Jesus Christ in the presence of the friends they had made at Old Church.
- My conversation with [A] about his faith journey during which he was honest about his conviction. These things convinced, myself and my colleagues and resulted in the church council approving [A] to the role of crucifer and Server at communion.

I hope this letter is of assistance.

Yours Sincerely,

Revd Canon Deb Buckley

38. Both the Rev Michael Goss and the Rev Buckley attended the hearing, gave oral evidence, and were cross-examined by Mr Tan.
39. An issue arose after the conclusion of the hearing in that the appellant's advocate submitted a further statement from the Rev Michael Goss in an attempt to clarify an aspect of the oral evidence he gave. As this is post hearing evidence a copy was sent to Mr Tan inviting his observations upon whether he agreed to the material being admitted and, if so, any comment he wished to make upon the same. Mr Tan objected to the additional material being admitted on the basis that it did not constitute new material but was rather an attempt by the Rev Goss to correct evidence previously given when there had been no indication at the hearing of any difficulties by the witness in recalling the facts presented or in giving evidence generally.
40. It was not considered by me appropriate to reconvene the hearing to invite further submissions upon this point as the appeal can be determined on the basis of the evidence given relating to the appellant's involvement with the church. The question of why the appellant fled Iran is a matter considered in the earlier determinations when whatever he claimed to be a real risk that he would have faced at that time was found to lack credibility.

## Discussion

41. The starting point in this appeal, in accordance with the Devaseelan principles has to be the earlier decisions referred to above. The Court of Appeal have, however, reminded us that such decisions should not prevent a later judge from reaching a different decision if that is justified on the evidence presented.
42. In this appeal the relevant date at which the evidence has to be considered is the date of hearing, in relation to which a large volume of the evidence post-dates the earlier decisions.
43. This does not mean, however, that concerns regarding the appellant's honesty, or lack of it, and suggested motives of making claims for the purpose of

enabling him to remain in the United Kingdom, that are not found to be credible, cannot be ignored when considering the weight to be given to the evidence in the round.

44. Whether a person is a genuine Christian convert is one of those questions which in a perfect world would be answered by the ability to look not only into a person's mind but also their heart. In the biblical sense, conversion means a turning—described in some Christian denominations as a 'spiritual turning away from sin in repentance and to Christ in faith. A true spiritual conversion radically alters the direction of one's life. A genuine conversion occurs much deeper within the soul of a person. It is a decisive break with the old and the embracing of new life in Christ by faith. It involves a change of mind, which is an intellectual change, and a change of view, a new recognition of God, self, sin, and Christ. It involves a change of affections, which is an emotional change, a change of feeling, a sorrow for sin committed. It involves a change of will, which is a volitional change, an intentional turning away from sin and a turning to God through Christ to seek forgiveness'. But whether that has occurred in this as in any other case where the question is whether a conversion is genuine can only be assessed on the basis of the evidence that has been provided.
45. Mr Tan highlighted in his submissions the omission in a report from a psychiatrist in 2012, relating to the appellant, of any mention of faith. The appellant accepted he did not mention his faith at that time claiming not to have been asked although Mr Tan did not accept this was a satisfactory explanation in light of the author of the report referring to the appellant's social circles and his network which it was submitted would have included church groups.
46. Mr Tan also referred to the appellant's screening interview dated 2007 in which the appellant declared his faith to be Church of England which was repeated in his asylum interview which it was submitted contradicts his claim to have been a Jehovah's Witness at that time. Whilst this is noted the evidence of the church officials from the Old Church referred to individuals not having a clear idea of the different Christian and other denominations, suggesting confusion between the Jehovah's Witnesses and the Church of England was plausible.
47. Mr Tan submitted that the appellant's claim regarding his faith formed part of his claim in 2008 which was rejected and that the current claim disclosed a pattern of repetitive behaviour with the appellant initially claiming to be of interest in Iran which failed resulting in that claim being abandoned, with another claim being made on a different basis which failed, was abandoned, and now a further claim being made following the appellant's appeal having been dismissed in 2014. Mr Tan submitted the current claim was, in effect, a continuation of the claim dismissed in 2014 relying upon evidence that he had continued to follow his faith since 2014.
48. It was submitted that the appellant's evidence was that he came to Birmingham in 2015 and started attending the Smethwick Old Church in 2016 with little evidence of regular church attendance in the interim.
49. Mr Tan's submission that the appellant attended the Smethwick Old Church yet within weeks asked to be able to help out in services which he was able to do within three weeks of having his name put on the list within the Communion,

which contradicted the evidence given is not made out. Rev Buckley confirmed in her evidence that the appellant had asked to assist and had his name placed upon a list of those willing to help as a result of which he was allocated to another member of the congregation who was already experienced in carrying the cross and assisting in the holy communion whom the appellant shadowed until he was accepted as being ready to undertake such tasks himself. The evidence of Rev Buckley was that the period of three weeks after the appellants name was added to the list reflected the time after which the appellant would have been allocated and worked with a mentor, not the time he would have been accepted as being suitable to undertake such work himself without supervision.

50. Mr Tan referred to the fact that whilst the appellant had revealed his criminal convictions in the United Kingdom to the members of the Smethwick Old Church they were unaware of all the details and did not know why the appellant had left Iran. The latter point is specifically tied in with the additional statement from the Rev Goss which has been discussed above. Whilst the appellant may not have told the church officials the full details of his conviction he did tell them of the fact he had been convicted, had served a period of imprisonment, felt remorse for what he had done, and wished to live a better life in the future. If the appellant was not asked the specific details of the offence, which he suggests is the case, this point does not arguably impact adversely upon him. The fact that having converted to the Christian faith the appellant admitted his previous criminality, which in the eyes of the church would have been the commission of a sin, was the point highlighted by both the Rev Goss and Rev Buckley in their evidence. It has not been made out the specific nature of the offence made any material difference either to the act of admission and/or contrition in the eyes of the church.
51. It was accepted by Mr Woodhouse there was a gap in the evidence relating to the appellant's church attendances as identified by Mr Tan, but it was submitted it was only a small gap and not as significant as Mr Tan submitted. It was also submitted it is a preserved finding the appellant had attended church in Leeds which meant the chronology to 2014 was fixed. There is other evidence of church attendances as referred to above. It is also the case that following the dismissal of his asylum claim the appellant lost his NASS accommodation and support and moved to Birmingham with friends attending different churches before a friend introduced him to the Smethwick Old Church in 2016.
52. Reliance was placed by Mr Woodhouse in the case of TF (Iran) v Secretary of State for the Home Department [2018] CSIH 58 in which the court found that church witnesses who were in positions of responsibility within the church who had observed the appellant's activities at church and expressed their views on the genuine nature of the appellant's conversion based on their experience were giving expert evidence.
53. It is also necessary, however, to note in PZ v SSHD [2018] CSOH 60 it was found:

[42] In the first place, properly analysed, in my view Mr Taylor was not giving expert evidence, in the sense of expressing his opinion on a matter recognised as constituting a

body of expertise and in which he had skill or experience. Most of his evidence was as to matters of fact: what he had observed about the petitioner's conduct (eg the petitioner's irregular attendance at the Tron Church) or it was hearsay as to what the petitioner had told him about that or other matters. Even his evidence about the internal church arrangements (the operation of bible studies and how the leaders of those prompted or promoted 24 individuals to seek baptism etc) was factual evidence about the practices of the Tron Church in relation to baptism. At most, Mr Taylor was asked whether he accepted the genuineness of the petitioner's conversion. (This question, it seems to me, is subtly different from being asked whether in his opinion the petitioner's conversion was genuine.) As noted above, Mr Taylor did not answer that in the affirmative. In his view, the petitioner's conduct (or progress on the journey) was not such that the petitioner would be accepted as ready for baptism, as understood and practised in the Tron Church. While that is Mr Taylor's opinion, and which could hardly be regarded as unequivocally favourable to the petitioner, in my view that is not expert opinion evidence in a Kennedy-relevant sense (supra). If there had been a query as to doctrine of the Tron Church which were challenged or required explication, then, to that extent, his evidence about this might be expert opinion evidence. However, there was no such issue or evidence of that character before the FTT. It follows that the point of principle does not really arise on the facts of this case.

54. In this case it is clear the church witnesses, on the basis of the appellants actions and expressed views, believe him to be a genuine Christian convert. There is specific reference to the thought process undertaken in coming to that view and the letter from the Rev Buckley admitted pursuant to Rule 15(2A) gives strong support to such a conclusion. I do not accept this is expert evidence but evidence of matters of fact to which proper weight may be given by me.
55. There is also the point made by Mr Woodhouse in his submissions that to find in the alternative will be to find the appellant has not only been able to hoodwink members of the Church who are willing to support him in their evidence but also his wife, who has also in her evidence expressed her belief that the appellant is a genuine convert, over a substantial period of time. Whilst individually personal views may not be sufficient in light of the previous adverse credibility findings, cumulatively and in light of the lower standard applicable to an asylum appeal I find they appellant has established that his conversion to Christianity is genuine.
56. Mr Tan submitted that even if this is the case the appellant will face no real risk on return to Iran as there was no evidence that anybody had been evangelised by the appellant such that they had attended the church and although the appellant claims to have evangelised through his Facebook account that was no more than a reposting of material to friends already known to the appellant.
57. There is merit in Mr Tan's submission that the appellant's claim that he had had his Facebook account blocked on the previous occasion was not supported by any evidence. Similarly, the appellant's claim to have received threats through Facebook was not supported by evidence sufficient to establish the appellant's alleged association between his conversion to Christianity and promotion of the faith.
58. It was submitted the appellant's Facebook profile does not establish an overt social media presence with the Facebook account be limited to being accessible to friends and containing reposted material.

59. Mr Tan also submitted the Smethwick Old Church has no links to any home church in Iran.
60. The relevant section of the headnote in PS, as noted above, reads:

- (i) A convert to Christianity seeking to openly practice that faith in Iran would face a real risk of persecution.
- (ii) If the claimant would in fact conceal his faith, decision-makers should consider why. If any part of the claimant's motivation is a fear of such persecution, the appeal should be allowed.
- (iii) If the claimant would choose to conceal his faith purely for other reasons (family pressure, social constraints, personal preference et) then protection should be refused. The evidence demonstrates that private and solitary worship, within the confines of the home, is possible and would not in general entail a real risk of persecution. In cases where the claimant is found to be insincere in his or her claimed conversion, there is not a real risk of persecution 'in-country'. There being no reason for such an individual to associate himself with Christians, there is not a real risk that he would come to the adverse attention of the Iranian authorities.

Decision-makers must nevertheless consider the possible risks arising at the 'pinch-point' of arrival:

- (i) All returning failed asylum seekers are subject to questioning on arrival, and this will include questions about why they claimed asylum (a genuine Christian asked about the basis of his claim for asylum cannot be expected to lie para 111);
  - (ii) A returnee who divulges that he claimed to be a Christian is reasonably likely to be transferred for further questioning;
  - (iii) The returnee can be expected to sign an undertaking renouncing his claimed Christianity. The questioning will therefore in general be short and will not entail a real risk of ill-treatment;
  - (iv) If there are any reasons why the detention becomes prolonged, the risk of ill-treatment will correspondingly rise. Factors that could result in prolonged detention must be determined on a case by case basis. They could include but are not limited to:
    - a. Previous adverse contact with the Iranian security services;
    - b. Connection to persons of interest to the Iranian authorities;
    - c. Attendance at a church with perceived connection to Iranian house churches;
    - d. Overt social media content indicating that the individual concerned has actively promoted Christianity.
61. Even if Mr Tan is correct in that the information visible on the appellant's Facebook page has been limited to named friends and associates, contrary to the appellant's claim that he has 180 friends on his Facebook account who he does not know personally, the real risk for the appellant will arise at the point of return.
62. It is not disputed that the appellant will be questioned by the authorities in Iran. Whilst his earlier claims for international protection based upon alleged difficulties in Iran have been shown to lack credibility his conversion to Christianity based upon the wealth of material now available has not. As the appellant's conversion and belief in the Christian faith has been found to be genuine, he cannot be expected to lie about the same solely for the purposes of avoiding persecution/harm.

63. The appellant and his screening interview at question 1.9 dated 11 September 2007 stated his religion is Christian (Church of England). At [2] of his witness statement dated 17 December 2019 and at [2] of his witness statement of 7 March 2018 the appellant stated that he was born into a practising Muslim family and was taught about Islam since childhood which he followed since he became of age. At [4] of the earlier witness statement the appellant confirms that he was a strict believer of Islam. The fact the appellant has converted from Islam to Christianity will, in the eyes of the authorities in Iran, make him an apostate.
64. The appellant may be instructed to renounce Christianity to avoid repercussion but as his Christian faith forms part of his fundamental identity and beliefs it will be contrary to the principles of HJ (Iran) to expect him to do so if the sole purpose is to avoid persecution.
65. The appellant has openly practised his Christian faith in the United Kingdom, and it was not made out he would not wish to do so on return to Iran, which creates a further risk for him.
66. If within Iran the appellant posted Christian messages or texts as he has done in the United Kingdom on his Facebook account, the greater surveillance of social media within Iran may result in the same being discovered by the Iranian authorities creating a further risk. In any event, it is known the authorities in Iran are likely to ask a returnee whether they have a Facebook account and for the password. The appellant cannot be expected to delete material from that account that reflects a fundamentally held belief. It is likely therefore that the material will be discovered by the authorities.
67. It is therefore on the basis of the decision in HJ (Iran) and the finding that it is not acceptable for a person to have to hide a belief which is genuine and a fundamental aspect of their make-up solely for the purposes avoiding persecution, as the appellant will be required to do, that entitles the appellant to succeed in this appeal. He is a genuine Christian convert who, unless he acts discreetly to avoid persecution, is likely to face ill-treatment sufficient to entitle him to a grant of international protection.
68. Although not strictly necessary in light of my finding above, Article 8 ECHR was raised at the hearing in light of the fact the appellant's wife has been recognised as a refugee from Iran on the basis of real risk she will face as a result of her conversion to Christianity. If the appellant was returned to Iran the couple will be separated. The respondent has failed to establish any such separation will be a proportionate interference in the family life enjoyed by appellant and his wife in light of the facts as found.

## Decision

69. **I allow the appeal.**



Anonymity.

70. The First-tier Tribunal made an order pursuant to rule 45(4)(i) of the Asylum and Immigration Tribunal (Procedure) Rules 2005.

I make such order pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008.

Signed.....  
Upper Tribunal Judge Hanson

Dated 6 January 2021