



Upper Tribunal

(Immigration and Asylum Chamber) Appeal Number: PA/12671/2018

THE IMMIGRATION ACTS

**Heard at: Manchester Civil
Justice Centre (remote)**

**Decision & Reasons
Promulgated**

On: the 24th November 2020

On: 6th January 2021

Before

Upper Tribunal Judge Bruce

Between

CSR

(anonymity direction made)

Appellant

and

Secretary of State for the Home Department

Respondent

**For the Appellant: Mr Hussain, Counsel instructed by Lei Dat
and Baig**

For the Respondent: Mr Tan, Senior Presenting Officer

DECISION AND REASONS

1. The Appellant is a national of Iran born in 1998. He appeals with permission against the decision of the First-tier Tribunal (Judge Brookfield) to dismiss his appeal on protection and human rights grounds.
2. The basis of the Appellant's claim before the First-tier Tribunal was that he faces a real risk of persecution in Iran because he has converted from Islam to Christianity. His claim, and appeal, failed because the Respondent, and then the Tribunal, rejected that factual assertion.
3. Judge Brookfield gave no fewer than fifteen reasons why she did not believe the Appellant. Permission to appeal was granted by First-tier Tribunal Kelly in respect of only one of those matters, which he evidently considered to be so fundamental to her *ratio* that if the finding in question is flawed for error of law, the entire decision arguably falls with it. The impugned passage reads as follows:

“The appellant claims that he was born a Muslim but stopped practising Islam when his cousin [X] was executed in 2015 by the Iranian authorities for being a member of an opposition party and also for religious reasons. The appellant does not know what opposition party his cousin joined. The appellant does not advise that his cousin converted from Islam to another religion, so it is difficult to accept his cousin was executed for religious reasons. The appellant does not explain why he blamed Islam in particular for his cousin's death, when he claims his cousin was executed for political reasons...”

4. Judge Kelly thought it arguable that Judge Brookfield had here created an “artificial distinction given the intimate relationship between religion and politics within the Islamic Republic of Iran”. Before me the parties were in agreement that Judge Kelly's observations were well made. Two points can be extracted from the First-tier Tribunal's reasoning. First, that it is not credible that the Iranian authorities would execute someone ‘for religious reasons’ if that individual had not in fact converted to another faith. Any cursory review of the country background material will reveal the fallacy in that. The entire criminal code in Iran was redrawn after the Islamic revolution to frame crimes against the state as crimes against God. Human rights reports over the past forty years demonstrate that a wide range of defendants

have faced accusations framed in religious terms. That leads to the second point: that the Tribunal appeared to doubt that the Appellant would blame Islam itself, rather than the Iranian government, for his cousin's death. Again, in the context of a repressive theocracy it is not surprising that he would do so. The line between 'Iran' and 'Islam' has been deliberately blurred and it is in no way implausible that an individual in the position of the Appellant would blame both for his loss.

5. The question, submits Mr Tan, is whether this apparent misunderstanding about the nature of the Iranian state is such that the decision should be set aside. He submits that the decision must be read as a whole, and given the overwhelming nature of the findings against the Appellant, the decision can safely be upheld. Mr Hussain emphasised that the alleged error went to the heart of the Tribunal's findings, that it framed them and set the context for the rest of the findings that followed. Had the Tribunal accepted that initial part of the account as plausible, its findings on all of the other elements of the story may have been other than they were.
6. The remaining reasons given by the First-tier Tribunal for rejecting the evidence were:
 - i) That it is not credible that the Appellant would leave his religion at a time that he was grieving;
 - ii) The Appellant gave inconsistent evidence about whether he was looking for another faith after he stopped following Islam;
 - iii) He claimed that he was unable to conduct research into Christianity in Iran because there were no resources available to him. This contrasts with the country background material which states that there are 24-hour Christian satellite channels available there;
 - iv) It is not credible that the Appellant's cousin would not have been able to provide him with some written material about Christianity if he had converted himself;
 - v) The Appellant's evidence about whether he knew conversion to be dangerous was inconsistent;
 - vi) It is not credible that the Appellant would decide to visit a house church after "only limited discussions" with his cousin;

- vii) The Appellant stated that when he attended the house church he was asked to give his name and address, and that this was later revealed to the authorities by a member who was arrested. It is not credible that he would be asked for his name and address, given the dangers that attendees face, since it would put the entire congregation at risk if one of their number were arrested;
- viii) In light of the severe punishments meted out for proselytising it is highly likely that the leader of a house church would undertake stringent enquiries of any newcomers (ie to make sure that they weren't a spy). In light of that it is not credible that the Appellant would simply be admitted because his cousin vouched for him;
- ix) The Appellant's claim that the congregation met on seven occasions in two different locations is inconsistent with the background evidence that house churches move frequently to make it more difficult for the Iranian authorities to locate them;
- x) It was not credible that the Appellant would decide to convert after only seven visits to a house church;
- xi) It is not credible that the Appellant would place himself and his family in danger by possessing Farsi language Christian literature when he is unable to speak or read in that language;
- xii) The account of the Appellant escaping after hearing shots fired near his house church is not credible (other reasons, specific to the account of this incident, are given in the decision);
- xiii) The evidence of the *Dorodian* witness, although accepted, attracted only little weight since Rev. Cirtina's interactions with the Appellant were restricted to being in church – he had no knowledge of the Appellant's life, behaviour or faith outside of that space;
- xiv) The Appellant's own evidence tended to indicate that he was not attracted to Christianity because it fulfilled a deep spiritual need. Rather it indicated that he equated it with Western social values:

“Being a Christian is freedom and you can drink alcohol and be with girls”;

- xv) The Appellant was in the United Kingdom for 6 months before he started attending church, which indicates that he was not particularly interested in doing so.
7. Judge Kelly expressly refused to grant the Appellant permission to challenge any of these findings, considering the grounds to be a quarrel with findings open to the Tribunal on the evidence before it. For my own part I have reservations about some of the findings. I do not, for instance, think it appropriate that we as decision makers should think ourselves able to ‘make windows into men’s souls’ in the way that the Tribunal apparently has at its finding (i). There is to my mind nothing inherently implausible about someone losing their faith in grief. Reasons (vii) and (viii) appear contradictory – either house churches conduct thorough vetting of prospective members or they do not. I note that in fact the Appellant’s account on this point at least is entirely consistent with the evidence given to the Upper Tribunal in PS (Christianity – risk) Iran CG [2020] UKUT 00046 (IAC) in that new members of the congregation are commonly introduced by family members.
8. That said it is abundantly clear that the Tribunal comprehensively disbelieved this witness. It repeatedly says so, and gives individually and collectively well-reasoned explanations as to why. I have to weigh that against the error identified by Judge Kelly. Did the Tribunal’s background view – if I can call it that – of the relationship between the government and people of Iran colour its assessment of the remaining evidence? I have given that matter careful consideration but in the end I have concluded that it did not. None of the credibility findings I have summarised above turn on the point. The fact was that the Appellant gave evidence that was both internally discrepant and inconsistent with the country background information, and gave a wholly unconvincing – even to the lower standard of proof – account of his claimed faith. It follows that notwithstanding the error identified Judge Brookfield’s decision must stand and the appeal is dismissed.

Anonymity Order

9. This appeal concerns a claim for protection. Having had regard to Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 and the Presidential Guidance Note No 1 of 2013: Anonymity

Orders I therefore consider it appropriate to make an order 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”

Decisions

10. The determination of the First-tier Tribunal contains no material error of law and it is upheld. The appeal is dismissed.
11. There is an order for anonymity.

Upper Tribunal Judge Bruce

12th December 2020