



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2021-001706
First-tier Tribunal No:
PA/50509/2021
IA/00964/2021

THE IMMIGRATION ACTS

Decision & Reasons Issued:
On the 23 April 2023

Before

UPPER TRIBUNAL JUDGE HANSON
DEPUTY UPPER TRIBUNAL JUDGE SILLS

Between

KS
(ANONYMITY ORDER MADE)

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Schwenk, instructed by Broudie Jackson and Cantor, Solicitors.

For the Respondent: Mr Diwnycz, a Senior Home Office Presenting Officer.

Heard at Manchester Civil Justice Centre on 6 February 2023

Order Regarding Anonymity

Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, the appellant is granted anonymity.

No-one shall publish or reveal any information, including the name or address of the appellant, likely to lead members of the public to identify the appellant. Failure to comply with this order could amount to a contempt of court.

DECISION AND REASONS

1. The appellant appeals with permission a decision of First-tier Tribunal Judge Alis ('the Judge') promulgated following a hearing at Manchester on 9 September 2021, in which the Judge dismissed the appellant's appeal against the refusal of

- her application for international protection and/or leave to remain in the United Kingdom on any other basis.
2. The appellant is a citizen of Iran born on 30 December 1995. The appellant left Iran in October 2020 and arrived in the UK on 2 November 2020. She claimed asylum at the airport.
 3. The basis of the appellant's claim is that she was born a follower of Islam but has since converted to Christianity and that she would not be able to follow her a religion if returned to Iran. The appellant also claimed to have posted about Christianity on her Facebook account.
 4. Having considered both the written and oral evidence the Judge sets out his findings of fact from [52] of the decision under challenge.
 5. The Judge noted the appellant's evidence that in 2013/14 she attended a house party in Iran where she was arrested and sentenced to a fine and lashes but was spared the lashes because her family paid money to avoid that aspect of the sentence.
 6. The Judge notes that although the appellant had tattoos this had not stopped her from working as a lifeguard for the authorities and private firms. The Judge notes at [56] that neither her tattoos nor her dyed hair prevented the appellant from working for the authorities in Iran. The appellant claimed in her oral evidence to be working right up to the time she left Iran.
 7. Having assessed the evidence the Judge writes at [68]:
 68. Taking the above factors into account, I do not accept the appellant's claim that she attended a house church always interested in Christianity whilst living in Iran to the extent she was wanted by the authorities. She claimed the authorities located her, but only one person knew where she lived. Given she was not detained at the time it is questionable how she would have been identified albeit I accept the country evidence suggests people watched. However, she was neither a leader of the church nor an actual convert and I do not find it incredible that she would have been watched.
 8. In relation to the appellant's claim to be a genuine Christian convert the Judge writes at [86]:
 86. Having considered all the evidence about her conversion including the baptism certificate, I'm not satisfied she is a genuine Christian. If returned she would not have to lie about her conversion as I find she only sought to convert to enable her to pursue a protection claim.
 9. In relation to the alleged risk of having left Iran illegally the Judge writes:
 87. The tribunal in HB made it clear that being a failed asylum seeker with or without a valid passport, and even if combined with illegal exit, did not create a real risk of persecution or Article 3 ill treatment.
 10. The appellant relies of four grounds of appeal, asserting the Judge failed to give adequate reasons for conclusions reached on material aspects of the claim, failed to make important findings on material aspects of the case, failed to give adequate reasons for rejecting material evidence, and failed to properly assess risk arising from the appellant's Facebook posts. We discuss the grounds in more detail below.
 11. In a Rule 24 reply dated 19 November 2021 the Secretary of States representative writes:

1. The respondent opposes the appellant's appeal. In summary, the respondent will submit *inter alia* that the judge of the First-tier Tribunal directed himself appropriately.
2. It will be argued that the judge has appropriately directed himself in considering the evidence from the appellant's church. It was open to the judge to raise the concerns he had with the evidence and in the absence of the author to shed light on the meaning of his words, it was open to the judge to make an assessment. It is not for the judge to 'infer' what may have been in the mind of the author but rather to address what information had been provided.
3. The judge was entitled to take into account having had regard to the questions regarding the appellant's faith in Iran (AIR 92, 94, 95, 99, 100) alongside her knowledge in the UK to make an informed judgement as to the genuineness or otherwise of her alleged beliefs.
4. The judge's conclusions were open to him in light of his findings that the appellant was not a genuine convert that she could delete her account before returning to Iran given their conclusion that these were not genuinely held beliefs. Given the rejection of the core of the appellant's claim it will be argued that the lack of findings with regards to her arrest in 2013/2014 are not material, given her ability to live without issue following these incidents; be gainfully employed by the state and faced no adverse interest.

Discussion

12. Ground 1 challenges the Judge's findings at [68] of the decision which is a conclusion following on from the Judge's analysis between [65 - 66]. In the paragraphs of the decision relevant to this ground the Judge writes:
 64. I find it surprising that there was no attempt by the appellant's mother to discuss her religion with her daughter in Iran in view of the fact she was not a child and given both their claims that they have to proselytise. I have no reason to go behind the mother's claim, but I am entitled to question to what extent this appellant was interested in Christianity.
 65. The appellant went on to claim that she attended a house church for around four months, but despite those meetings being in Farsi her knowledge was limited according to the respondent. The appellant has, in her statement, challenged aspects of her interview and in particular the recording of dates. One of the issues raised by the respondent was the appellant's inability to describe her favourite story despite stating she read the bible a lot and discussing the bible at House Church meetings. Whilst I find it would be unreasonable to expect a person to answer technical questions it would not be unreasonable for that person to be able to talk about stories in the bible against a background of her attending meetings for four months and on her own admission reading the bible and discussing religion not only with her mother but also people at the House Church.
 66. This appellant arrived in the United Kingdom in November 2020 having left Iran the previous month. Her substantive interview with the respondent was on 4 December 2020. On her evidence she had been discussing Christianity with her mother since 2016

and she had been discussing Christianity with Zari since 2019 and attending a house church since June 2020. She therefore had some experience and knowledge of Christianity before she arrived in this country and her inability to discuss that with the interviewing officer is a fact to take into account when considering the overall credibility of her account of events in Iran.

67. Country evidence confirms there are house churches and there is evidence that the Church is reluctant to take in converts in light of the government's attitude towards such converts and how that would impact the leaders of the church. The appellant's claim to have attended a house church could be credible, but that claim must be considered alongside the other evidence. I also take into account that at that time she was not a convert but simply someone who expressed an interest in Christianity.
 68. Taking the above factors into account, I do not accept the appellant's claim that she attended a house church or was interested in Christianity whilst living in Iran to the extent she was wanted by the authorities. She claimed the authorities located her, but only one person knew where she lived. Given she was not detained at the time it is questionable how she would have been identified albeit I accept the country evidence suggests people are watched. However, she was neither a leader of the church nor an actual convert and I do not find it credible that she would have been watched.
13. The grounds refer to the appellant's asylum interview, but the Judge clearly took the content of that document together with all the other evidence into account. The grounds assert that the questions asked of the appellant did not focus on her experience and knowledge of Christianity whilst in Iran and that when asked at question 113 what stories she had read from the Bible since she has been in the UK it is stated the appellant was able to give "apt answers" with no questions being asked about stories and knowledge whilst in Iran. The ground asserts the Judge's finding that the appellant had displayed an inability to discuss her experience and knowledge was against the weight of the evidence contained in the substantive interview.
14. At question 112 of her substantive interview the appellant was asked what her favourite story in the Bible was, to which she replied, "*I have read some of the evangelism and also the ones that Zari has told me about it is very interesting about it*". At question 113 the appellant was asked what stories she had read from the Bible since she had been in the UK to which she replied "*When Jesus was sitting with his disciples and his mother and father came to talk to him. The parents were behind the door and they wanted to see him but Jesus answer was whoever believes in heaven regard then they are my family*". The appellant was ask question 114 what she liked about the particular story and at question 115 where she could find this story in the Bible to which she again stated she could not remember which page it was. The appellant was asked at question 116 what other stories she liked from the Bible and why to which she replied, "*In Joanna I read a woman who donned the adultery like that very much which I read*". At question 117 the appellant was asked whether there are other stories that she has read to which she replied "*the one I like very much the heavenly God has said that anyone that has fate on me and comes to me is like a pearl and I would take him to me and he'll be part of me*" but when asked where the story was from the appellant claimed she could not remember.

15. The appellant was asked at question 119 what Holy Trinity is in Christianity, but she admitted she did not know. At question 120 the appellant was asked to name some of the Christian celebrations to which the appellant replied "*Christmas, Easter and the first time I celebrated that I was able to attend was lent*". The appellant stated Lent was a celebration 4 weeks before Christmas when you light a candle which she had done.
16. The interviewing officer correctly indicated to the appellant that the four weeks leading up to Christmas is Advent and not Lent.
17. The appellant therefore had ample opportunity to be able to express her belief and understanding of Christianity which, as the Judge noted, she claimed to have had knowledge of. We find it reasonable for the Judge to have assumed that the appellant would have knowledge of such facts when looking at the evidence in the round. The Judge was entitled to find that the appellant had been unable to discuss her knowledge of Christianity at the interview and to take this into account when assessing the Appellant's credibility. Ground 1 fails to establish legal error on the basis of the Judge's assessment on the evidence relating to this particular aspect of the appeal.
18. Ground 2 asserts the Judge failed to make any formal findings on the claim the appellant left Iran illegally or whether she had been previously arrested as claimed in 2013/2014.
19. The Judge at [87] makes the specific finding that there will be no risk on return for the appellant even if she left Iran illegally. The Judge was well aware of the 'pinch point' on return to Iran but did not find that any relevant factors would increase the risk to the appellant, such as to warrant a grant of international protection.
20. It is not disputed that under the Iranian penal code if a person is sentenced to lashes for an event such as attending a party and mixing with the opposite sex, as the appellant may have done, they may be sentenced to lashes, but they will have an option of paying a fine instead. The appellant's evidence is that such fine was paid which means there is no issue about ongoing interest in her in relation to this issue. So far as an increased risk on return is concerned, it is important to note that notwithstanding this event and the appellant's dyed hair and tattoos as noted by the Judge, the appellant was able to work up until the point of her departure from Iran for the authorities. It was not made out before the Judge, nor in the ground seeking permission to appeal or in any sources to which we have been referred, that this issue, even if combined with the illegal exit, will be sufficient to create a real risk for the appellant of ill-treatment or persecution. No legal error is made out in Ground 2.
21. Ground 3 asserts a failure to give adequate reasons for rejecting material evidence on the genuineness of the appellant's conversion. It is not disputed a baptism certificate was provided as noted by the Judge. There was also a letter from a named official of the Today's Community Church dated 6 June 2021 in which the author stated they fully endorse the appellant. The appellant asserts the Judge's finding that the letter is not an endorsement of whether she is a genuine Christian convert is wrong when the text of the letter is considered.
22. The Judge clearly took the letter into account together with the other evidence relied upon by the appellant. There is specific reference to the letter together with phrases taken from it at [71] and [72]. The Judge finds the letter is not an endorsement that the appellant is a genuine convert or that she has made a positive impression on the author of the letter. The Judge writes in the same paragraph that there was no letter from the person who baptised the appellant and no explanation of what was involved and that, according to the appellant, she registered to be baptised and then simply attended on the day and said a

- prayer. The Judge found the lack of information about what was involved and how the appellant engaged to be significant.
23. The process of baptism normally involves a discussion with a vicar, priest, or minister of the relevant church. In the Church of England preparation for baptism includes a course of instruction in the faith. We have had the benefit of considering the letter which was specific referred by Mr Schwenk together with the other evidence. The ground is, in effect, disagreement with the Judge's findings to the proper interpretation of that letter and weight the Judge felt able to give to that piece of the evidence when assessing the genuineness of conversion. We find no legal error established in the Judge's interpretation of the letter or the conclusion that, when taken with the other evidence, there was insufficient to support a finding that the appellant is a genuine Christian convert. No legal error is made out in relation to ground 3 as we find the Judge's findings are supported by adequate reasons enabling a reader to understand why the Judge found as he did. It must be remembered that reasons need to be adequate not perfect.
24. Ground 4 asserts the Judge has failed to properly assess the risk arising from the appellant's Facebook posts. Guidance is now available, which was not before the Judge, in relation to Facebook and social media in XX [2022] UKUT 00023. The Judge clearly considered this aspect of the appellant's appeal. An interesting point noted by the Judge is that the appellant's entries in her Facebook posts were not shared with the wider public and that her account name did not match her name in these proceedings indicating that a search against the appellant's name would not reveal this or any other Facebook account held by her.
25. The Judge's findings related to Facebook are summarised at [81] and we find no legal error in the same. The appellant had not established that the Iranian authorities were aware of or had accessed her Facebook account. The Judge finds that the conversion to Christianity is not genuine. The claimed religion is therefore not a fundamental aspect of the appellants personal identity. Deleting the same will not infringe the HJ (Iran) principles.
26. As found in XX, an individual has no right to have a social media account and a Facebook account once deleted cannot be found. We find no error in the Judge finding that the appellant can delete the account and that as a result it would not come to the attention of the authorities. The Judge's conclusions at [85] in relation to this aspect have not been shown to be infected by legal error.
27. Having considered the submissions made by Mr Schwenk, the pleadings, the Judge's findings, and the evidence, we concluded that the appellant has not established legal error material to the decision to dismiss the appeal. Accordingly, the determination must stand.

Notice of Decision

28. There is no legal error in the decision of the First-tier Tribunal. The determination shall stand.

C J Hanson

Judge of the Upper Tribunal
Immigration and Asylum Chamber

3 March 2023