



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2023-
001500

First-tier Tribunal No:
PA/04377/2020

THE IMMIGRATION ACTS

Decision & Reasons Issued:

18th January 2024

Before

UPPER TRIBUNAL JUDGE LANE

Between

MM

(ANONYMITY ORDER MADE)

and

Secretary of State for the Home Department

Appellant

Respondent

Representation:

For the Appellant: Ms Brakaj
For the Respondent: Mr Bates, Senior Presenting Officer

Heard at Manchester Civil Justice Centre on 12 January 2024

DECISION AND REASONS

1. The appellant is a male citizen of Iran. He appeals to the Upper Tribunal against a decision of the First-tier Tribunal promulgated on 17 February 2023, dismissing his appeal against a decision of the Secretary of State refusing him international protection.
2. Upper Tribunal Judge Sheridan's reasons for granting permission to appeal were as follows:

Some of the reasons given by the judge for not believing that the appellant is a genuine convert (such as that "redemption cannot come without contrition" – see para. 78 of the decision) appear to be based on a relatively sophisticated theological understanding of what it means to be a Christian that arguably has no relevance to how the appellant perceives himself (or is perceived by others). It is arguable that the approach taken by the

judge is inconsistent with what is said in paragraph 10 of PS (Christianity - risk) Iran CG [2020] UKUT 00046 (IAC) about it not being possible “to make windows into men’s souls”.

3. At the initial hearing, the parties were agreed that the decision of the First-tier Tribunal should be set aside. I also agree. Possibly prompted by the evidence of the appellant’s witness, Mr Wesley Downs) , the judge embarked [78] upon a detailed and wholly inappropriate analysis, peppered with rhetorical questions, of the appellant’s relationship with God:

Following Mr Downs’ rationale, surely redemption cannot come without contrition? Forgiveness without repentance? Contrition and repentance must surely involve an honest and full recognition of wrong-doing, which must necessarily exclude the type of minimising and victim blaming I refer to above. I find that the appellant has failed to show that he has acknowledged his wrong doing, has failed to show that he has been honest with himself and his spiritual leader, Mr Downs, about the full extent and nature of his wrong doing; in that he has failed to show that he has honestly and sincerely acknowledged the seriousness of his sex offences against a child. I find that the appellant has failed to show before me that he has sincerely recognised the wretchedness of his offending and repented of his wrong doing, as the Christian faith would surely require for a genuine conversion. I find, based on all the evidence before me, that the appellant has sought to leap-frog over the most fundamental phase of Christianity, without which a genuine conversion and baptism is utterly hollow and meaningless.

I do not say that a judge cannot take a view of the genuineness of an appellant’s claimed religious conversion or remorse for criminal offending. Such an analysis should, however, be objective and evidence-based; it should not lapse into unhelpful speculation regarding the workings of an appellant’s conscience. Despite writing a very detailed decision, the judge’s credibility assessment is so seriously flawed it cannot stand. Whilst I note that the appeal has been remitted to the First-tier Tribunal before, the need for *de novo* extensive fact-finding indicates that the appeal will need to be heard again and the decision remade in the First-tier Tribunal.

Notice of Decision

The decision of the First-tier Tribunal is set aside. None of the findings of fact shall stand. The appeal is returned to the First-tier Tribunal for that Tribunal to remake the decision.

C. N. Lane

Judge of the Upper Tribunal
Immigration and Asylum Chamber

Dated: 12 January 2024

