



**Upper Tribunal
(Immigration and Asylum Chamber)**

Appeal Number: PA057672016

THE IMMIGRATION ACTS

**Heard at Bradford
On 30 May 2017**

**Decision & Reasons
Promulgated
On 7 June 2017**

Before

UPPER TRIBUNAL JUDGE CLIVE LANE

Between

**REZA ZARE
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms Khan, instructed by Parker Rhodes Hickmotts, Solicitors
For the Respondent: Mrs Pettersen, a Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant, Reza Zare, born on 13 June 1994 is a male citizen of Iran. By a decision dated 27 May 2016, the respondent refused the appellant's claim for asylum. The appellant appealed to the First-tier Tribunal (Judge Hillis) which, in a decision which was promulgated on 13 December 2016,

dismissed the appeal. The appellant now appeals, with permission, to the Upper Tribunal.

2. The appellant claims to fear persecution in Iran on account of his conversion from Islam to Christianity. Judge Hillis did not accept that the appellant had given a truthful account of his conversion or that he would be at real risk of persecution or ill-treatment on return to Iran [27].
3. I find that the First-tier Tribunal's decision should be set aside. There are a number of grounds of appeal but I find that the first of these grounds has been established and is such that the decision cannot stand. Since the decision will have to be returned to the First-tier Tribunal and none of the findings of fact shall stand, I make no findings as regards grounds 2-4.
4. As the grounds state, four witnesses gave evidence on behalf of the appellant at the hearing. These witnesses include the appellant himself, [GZ], [ZG] and a friend, [YS]. Judge Hillis incorrectly states [8] that only three witnesses gave evidence. He incorrectly states that the names of the witnesses in addition to the appellant were [GZ] and [YG], a confusion of the two of the witnesses who gave evidence. Most seriously, however, is what Judge Hillis states at [25]:

[YS] did not attend the hearing and have the evidence in his witness statement dated 8 November 2016 tested in cross-examination and I conclude that I can place no evidential weight on its contents.

5. The parties are agreed that [YS] did attend the hearing and was cross-examined by the Presenting Officer. The judge's error has fundamentally undermined his assessment of the evidence given in the appeal on behalf of the appellant. In consequence, the appellant has been denied a fair hearing of his appeal. I set aside the decision of the First-tier Tribunal. There will need to be a new fact-finding exercise which is best conducted by the First-tier Tribunal to which this case is now returned.

Notice of Decision

The decision of the First-tier Tribunal which was promulgated on 13 December 2016 is set aside. None of the findings of fact shall stand. The appeal is returned to the First-tier Tribunal (not Judge Hillis) for that Tribunal to remake the decision.

No anonymity direction is made.

Signed

Date 2 June 2017

Upper Tribunal Judge Clive Lane

No fee is paid or payable and therefore there can be no fee award.

Signed

Date 2 June 2017

Upper Tribunal Judge Clive Lane