



Upper Tribunal
(Immigration and Asylum Chamber)

PA/05897/2016

THE IMMIGRATION ACTS

Heard at Glasgow
On 16 August 2018

Decision & Reasons Promulgated
On 13 September 2018

Before

Mr C M G OCKELTON, VICE PRESIDENT & UT JUDGE MACLEMAN

Between

AHMAD SOLTANI

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

For the appellants: Mr A Devlin, Advocate, instructed by Quinn, Martin & Langan, Solicitors
For the respondent: Mr A Govan, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant identifies himself as a citizen of Iran, born on 30 March 1989. He sought asylum in the UK on 1 December 2015. He said that he converted in Iran from Islam to Christianity, and fled when the authorities identified him as an apostate.
2. The respondent refused the claim for reasons given in a decision dated 27 May 2016.

3. FtT Judge Mrs D H Clapham heard the appellant's appeal on 14 June 2017 and dismissed it for reasons given in her decision promulgated on 23 October 2017.
4. Permission to appeal to the UT was refused by the FtT, but granted by the UT on 12 February 2018, on the view that if the interpreter was asked not to translate submissions, that gave rise to arguable procedural unfairness in preventing the appellant from being an effective participant.
5. The formulation of the grounds over the two applications results in rather odd numbering of paragraphs. Mr Devlin confirmed that the appellant relies only on the grounds found within the bounds of the application to the UT filed on 14 December 2017, over two pages, with paragraphs numbered 2 (a) (i); 2 (a) (ii); then two unnumbered paragraphs; 2 (b); 2 (c); 2 (d); and two further unnumbered paragraphs. Points raised were dealt with in that order in submissions, which we also follow.
6. Paragraph 2 (a) (i) alleges error by the judge in not recognising that the appellant having been told not to disclose materials to anyone else was tantamount to having been warned of dangers inherent in doing so.
7. The ground does not tell us where among the 15 pages and 146 paragraphs of the decision this alleged error may be found. Mr Devlin (who was not, we think, the author of the grounds) advised us that it appeared to be directed against paragraph 135. He submitted further that the materials handed to the appellant were obviously dangerous, and that the observation that he was not told of the risk "during all this time" was unjustified, when no long period seemed to have elapsed. Mr Govan submitted that the judge was entitled to take the view that the appellant would have been given an explicit warning.
8. We see no more in this ground than a selective and rather obscure disagreement on an issue of fact. Even as the ground was expanded upon, the period over which there were contacts regarding Christianity appears to have been about 6 weeks. We see no error in the judge's view that a word of warning might have been a natural expectation.
9. Ground 2 (a) (ii) says the judge went wrong in thinking there was evidence of regular use of the phone to discuss Christianity. We were told this went to paragraph 138. The ground does not say where the evidence may be to show that the judge went wrong. Reference to Q/A 74 shows that there was a foundation in the evidence for her view, and she did not go wrong.
10. We also note that the judge at paragraph 138 was justified in finding that use of the phone to warn the appellant (the only element in his account capable of bringing his involvement with the house church to attention of the authorities) would, on the account given, have been unnecessary and risky, and was therefore not credible.
11. The next point in the grounds is obscure, aiming at a distinction between the appellant staying "with his friend for 5 days" or staying "with his brother for 5 days at the house of one of his brother's friends". It appears to be directed against paragraph 139. It became clear in course of submissions, on reference to the various sources of evidence

and to paragraphs 13 – 15 of the decision, that the judge did not misunderstand the gist of the evidence. She did not rely on any misidentified inconsistency.

12. As to the next paragraph of the grounds, it is not speculative but good sense to consider that the authorities would be likely to conduct reasonably thorough enquiries, rather than searching only one room of a house with several occupants.
13. Paragraph 2 (b) is aimed at the negative view at paragraph 137 of the appellant seeming to “regurgitate almost the same reasons” for rejecting Islam at interview and in oral evidence. The ground is wrong in relating this to evidence given in a foreign language, as Mr Devlin accepted, because that makes no difference to the point raised. However, we think this ground does show unjustified negativity towards consistency in the evidence.
14. Ground 2 (c) says that the appellant’s honesty and charity should have been taken as indicative of his Christianity. This firstly jumps to a conclusion, and secondly overlooks that good qualities may be found in persons of other religions, including Islam, or of none. The ground goes on to suggest “compartmentalisation”, but it is important to bear in mind that this was a claim based on an alleged conversion which had taken place in Iran. The view formed by witnesses in the UK of the sincerity of the appellant’s Christian devotion in the UK was of lesser significance than in a *sur place* claim. Their opinion might well have been different if they knew the appellant to have invented an account of conversion in Iran.
15. In those circumstances, while the general rule is to look at all the evidence in the round, there was no error in not accepting the account of conversion in Iran at paragraph 141, before turning to attendance at the Tron Church in Glasgow at paragraph 142. That dealt with the case in a sensible order.
16. Mr Devlin was unable to show that paragraph 2 (d) shows any error in the treatment of the evidence from the “church witnesses”, Mr Taylor and Mr Hamilton. The judge did not doubt their genuineness, and gave sensible reasons at paragraphs 142 – 145 for not sharing their view of the appellant’s sincerity, which was for her to judge. As Mr Govan observed, their evidence at points strayed towards advocacy for the appellant, and the grounds took no point about the treatment of Mr Hamilton’s evidence, only about Mr Taylor’s. This chapter of the evidence, as we observed above, did not bear on the crucial issue in quite the same way as in *sur place* cases.
17. On the next ground, we were referred to no authority for the proposition that it is an error of law for a judge not to ensure that submissions are interpreted to an appellant. We are not aware of any such authority. The tribunal provides interpreters primarily to enable it to hear the oral evidence. They are not provided for translating submissions for appellants who have representatives (although sometimes, in practice, they convey the gist of submissions even in represented cases). Tribunal interpreters are not expected to practice the difficult art of simultaneous translation. It would be for an appellant to bring such an interpreter on his own account. We find this ground misconceived.

18. The Judge asked the interpreter not to translate the submissions because she could not hear both at the same time. That was good practice. The proper course for the appellant's representative, if there was any such rule as contended, would have been to suggest that the appellant and interpreter retire and sit together at the back of the court, so that the Judge could hear the submissions (the overriding priority) while their gist was conveyed.
19. We further note that it is not alleged that any mischief arose from absence of simultaneous translation of the submissions.
20. On the last point in the grounds, delay between the hearing and the making of the decision, Mr Devlin had nothing to add. The delay was longer than is usual or ideal, but nothing arises from it which puts the decision in doubt. (The earlier version of the grounds in this respect founded on confusion in identifying the representative. The heading of the decision refers to "Mr G Gowan" and the body of the decision to "Mr McGlashan". The representative was Mr McGowan. These are only dictating or transcribing slips, of no consequence.)
21. The only error established is that the judge did not explain why she took an adverse view of the appellant's repetition of his reasons. She gave this some weight, but it is a small feature of the decision as a whole. Noting else in the grounds shows any error of fact or law.
22. The appeal is dismissed. The decision of the FtT stands.
23. No anonymity direction has been requested or made.



17 August 2018
Upper Tribunal Judge Macleman