



**Upper Tribunal  
(Immigration and Asylum Chamber)** Appeal Number: PA/06422/2017

**THE IMMIGRATION ACTS**

**Heard at Priory Courts Birmingham**

**Decision & Reasons**

**On 5 February 2019**

**Promulgated**

**On 19 February 2019**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE M A HALL**

**Between**

**KHM  
(ANONYMITY DIRECTION MADE)**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr A W Khan of Fountain Solicitors

For the Respondent: Mr M Diwnycz Senior Home Office presenting officer

**DECISION AND REASONS**

**Introduction and Background**

1. The appellant is a citizen of Iraq born 8 December 1988. He appeals against a decision of Judge Graham (the judge) of the First-tier Tribunal promulgated following a hearing on 19 March 2018.
2. The appellant made a claim for international protection claiming to fear his tribe in Iraq because he had refused to marry the daughter of the tribal leader. Because of that refusal she had made a false allegation of rape

against him and a warrant had been issued for his arrest. He also feared persecution because he had converted to Christianity while in Iraq.

3. The appellant entered the UK on 21 May 2016 with a business visa, to attend a training course. He returned to Iraq on 14 August 2016. He then returned to the UK on 15 October 2016 and claimed asylum on 18 November 2016.
4. The respondent refused the international protection and human rights claim on 19 June 2017. At the appeal hearing on 19 March 2018 the judge heard evidence from the appellant and four witnesses from a church he attended including the Pastor.
5. There was no issue raised as to the appellant's nationality or Kurdish ethnicity. The judge made an adverse credibility finding as the appellant did not claim asylum immediately upon arrival in the UK although he had claimed that he left Iraq in October 2016 in fear of his life, but the judge made it clear that she did not base her credibility findings on that issue alone.
6. The judge did not find the appellant to be a credible witness. She did not accept that there was an arranged marriage with the daughter of the tribal leader and did not accept that he had been accused of rape and therefore concluded that the appellant would not be at risk from members of his tribe.
7. The judge did not accept the appellant had genuinely converted to Christianity. With reference to the witnesses she concluded at paragraph 29 that they were witnesses of truth, but she was satisfied that the appellant had misled them as to his interest in Christianity.
8. The appellant, through his solicitors, applied for permission to appeal to the Upper Tribunal. It was contended that the judge had erred in law by failing to provide adequate reasons for concluding that the appellant was not a genuine convert to Christianity. It was submitted that the judge had failed to provide adequate reasons for concluding that although the four witnesses were witnesses of truth, they had been misled by the appellant.
9. Permission to appeal was granted by Judge Bird who found it arguable that the judge had provided inadequate reasons.
10. Following the grant of permission to appeal the respondent lodged a response pursuant to rule 24 of the Upper Tribunal Procedure Rules 2008. In summary it was contended that the judge had given adequate reasons for finding that the appellant's account of his conversion to Christianity was not credible and it was submitted that the FTT decision did not disclose a material error of law.

## **My Consideration and Conclusions**

11. At the oral hearing before me Mr Khan relied upon the grounds upon which permission to appeal had been granted and submitted that the judge had failed to make adequate findings regarding the evidence of four witnesses who confirmed their belief that the appellant is a genuine Christian.
12. Mr Diwnycz relied upon the rule 24 response and submitted that the reasoning provided by the judge was adequate.
13. There had been no challenge to the credibility findings made by the judge in which she concluded that the appellant would not be at risk from his tribe if he returned to Iraq, because he had not agreed to enter an arranged marriage and he had not been accused of rape. That therefore was not in issue before me.
14. The appellant's challenge is based on inadequacy of reasoning in relation to the claimed conversion to Christianity. Guidance has been given on adequacy of reasoning in Budathoki (reasons for decisions) [2014] UKUT 341 (IAC). In summary the guidance states that it is generally unnecessary and unhelpful for FTT judgements to rehearse every detail or issue raised in a case. This leads to judgements becoming overly long and confused and is not a proportionate approach to deciding cases. It is, however, necessary for judges to identify and resolve key conflicts in the evidence and explain in clear and brief terms their reasons, so that the parties can understand why they have won or lost.
15. I am satisfied that the judge applied the principles set out above and provided adequate reasons for her conclusion that the appellant had not genuinely converted to Christianity. Those reasons are contained at paragraphs 26-28 and summarised at paragraph 29.
16. Budathoki makes it clear that it is not necessary to set out the evidence given by the witnesses. It is clear from the FTT decision that the witnesses believed the appellant to be a genuine convert Christianity and the judge accepted them as genuine and truthful witnesses. It is a matter for the judge to decide what weight to attach to evidence given by witnesses. It is not suggested that the judge has made perverse or irrational findings and I find that she has not. The question to be decided is whether she has provided sufficient reasons for findings, so that the appellant can understand why his appeal was unsuccessful.
17. In giving reasons the judge found at paragraph 26 that the appellant's credibility was adversely affected because despite claiming to be interested in Christianity while in Iraq, he did not attend any church in Iraq prior to his baptism. In addition he was in the UK between May and August 2016, when according to his evidence he had already converted to Christianity but he chose not to attend a church in the UK. He did not become baptised in the UK, which is a safe country, but returned to Iraq and claims then to have been baptised despite the risks of converting to Christianity in Iraq.

18. The judge found that the appellant's credibility was adversely affected because his evidence was that he had travelled to Kirkuk to become baptised where he would not be recognised, but then claimed that a few days after his baptism he had openly visited a church in his home area where he would be recognised.
19. At paragraph 28 the judge noted that the appellant had produced a copy Baptism Certificate and although he said he had provided the original to his solicitors, the original had not been provided. The judge was not satisfied that weight should be attached to a copy document because of changes that can take place during the copying process. In addition the judge found against the appellant because he had not provided any explanation as to why he would choose to be baptised in a Catholic church in Iraq, but subsequently chose to attend an Evangelical church in the UK. The judge noted that the Pastor confirmed that his church was Evangelical and there were significant differences between Evangelical and Catholic churches.
20. The findings made by the judge in paragraphs 26-28 have not been specifically challenged on behalf the appellant, as the challenge relates to paragraph 29 and the finding that the witnesses had been misled. The judge made findings open to her on the evidence. Sustainable reasons for those findings have been given. I am satisfied that the reasons given by the judge in paragraphs 26-29 are sufficient to explain why she did not believe the appellant was a genuine convert to Christianity. The judge found that the weight to be attached to the findings in paragraphs 26-29 outweighed the weight to be placed on the belief of the four witnesses that the appellant is a genuine convert to Christianity.
21. The appellant disagrees with the judge's conclusion and the grounds upon which permission to appeal was granted disclose that disagreement, but they do not disclose a material error of law.

### **Notice of Decision**

The decision of the FTT does not disclose a material error of law. The appeal is dismissed.

### **Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008**

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 both to the appellant and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.

Signed 

Date 14 February 2019

Deputy Upper Tribunal Judge M A Hall

**TO THE RESPONDENT  
FEE AWARD**

I have dismissed the appeal and therefore there can be no fee award.

Signed 

Date 14 February 2019

Deputy Upper Tribunal Judge M A Hall