



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

Appeal Number: PA/11207/2018

THE IMMIGRATION ACTS

**Heard at Field House
On 18 February 2019**

**Decision & Reasons Promulgated
On 11 March 2019**

Before

DEPUTY UPPER TRIBUNAL JUDGE MCGEACHY

Between

**ASHKAN JAVANMARDI
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr A Jafar, of Counsel instructed by Messrs JK Solicitors
For the Respondent: Mr S Kotas, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant appeals, with permission, against a decision of Judge of the First-tier Tribunal Sweet who, in a determination promulgated on 29 October 2018, dismissed the appellant's appeal against a decision of the Secretary of State made on 9 September 2018 to refuse to grant asylum.
2. The appellant is a citizen of Iran born on 12 August 1991. The basis of the his claim was that he is now a Christian, having converted to Christianity in Iran in December 2014 when he had been invited for Christmas celebrations at a friend's house and then to a Bible group session. He said that he had been baptised in Iran either on 15 June 2015

or between November and December 2014. He had married in February 2015 in an Islamic ceremony and had told his wife of his conversion to Christianity. His wife's uncle who worked for Sepah - the guards of the Islamic Revolution - and when he had found out about the appellant's conversion he and the appellant's father-in-law came to the house and had beaten him severely, threatening to have him arrested for converting to Christianity. He had left Iran in December 2015 and claimed asylum in Austria on 11 January 2016. However, in July 2016 his wife convinced him to return to Iran. When he had returned his wife's uncle had begun visiting his home frequently and questioned him about his Christian friends. The appellant found that his wife had been texting her uncle about his Christian contacts and he said that he had no longer felt safe and decided to leave Iran again. He left again in February 2017 and arrived here on 6 March 2017.

3. The Secretary of State considered the appellant's claim to have converted to Christianity but pointed out that at interview the appellant could not remember the date on which he had been converted or had been baptised and that although he said that he had been studying the Bible for six or seven months he had been unable to state the name of the church in Britain which he claimed he had been attending on a weekly basis. It was not considered reasonable that he would be unable to name his local place of worship. Moreover, the appellant had been unable to tell the interviewing officer the story of Easter, had incorrectly stated Jesus had ten disciples and was unable to state what day Christmas fell on saying that it was between November and December or between December and January. Moreover, the appellant had been unable to say which Testament of the Bible he had been following as a Protestant Christian.
4. The Secretary of State noted that the appellant said that approximately six months before he had married his wife he had begun to feel differently about Islam and that, given that his wife was a devout Muslim, there must be doubts about the credibility of his conversion to Christianity. Alternatively, the appellant had contradicted himself when he said that had stated that his wife was never a strict follower of Islam.
5. The letter of refusal pointed out that although his wife had told her mother and her uncle Ali, who worked for Sepah, about the appellant's Christianity and he had said Ali was one of the most important people in Sepah, the appellant did not know what rank he held. Moreover, the letter of refusal placed emphasis on the fact that despite what had happened to him in Iran the appellant had returned to Iran despite his fear of beatings and of being arrested.
6. In the determination the judge noted the appellant's evidence and a letter from the Reverend Mehr of the church which the appellant said he is currently attending. The appellant had said that he had been introduced to the church by his uncle and a friend but that his uncle was not at court to give evidence as he thought there would be too many witnesses. The appellant was asked why had only started attending Reverend Mehr's

church in 2018 and he had replied that he had previously attended an English speaking church but he had difficulty understanding the first church and so had moved to an Iranian church because it was near to his girlfriend's house. The appellant confirmed that he claimed asylum in Austria but had left without awaiting the outcome. He was asked further questions about his marriage and it was noted that his wife was still in Iran and that he had divorced her in 2018. The appellant said that he had been confused about the date of his baptism.

7. The appellant's partner gave evidence, stating that they had attended St Mary's church together but that the appellant now attended an Iranian church because she worked weekends and he cannot speak English. Because of the time of services it is possible for him to go to both churches on a Sunday. She indicated that she had had an immigration appeal.
8. In paragraphs 47 onwards the judge set out his findings and conclusions. He stated there were many aspects of the appellant's claim which cast doubt on his credibility. Firstly, although the judge stated that while he accepted there may have been difficulties in translating from the Iranian calendar to the Gregorian calendar, the appellant had given conflicting dates about the date of his baptism - whether in June 2015 or November/December 2014 and indeed about the dates of his pre-baptism classes. Moreover, the appellant had claimed to be attending St Mary's Church in north London and staying with his uncle but neither of his uncles who were both allegedly Christians and had claimed asylum in Britain based on their Christianity had attended court to give evidence. Neither of their witness statements mentioned Christianity but merely that they were supporting the appellant. The judge went on to refer to differences about where the appellant had attended church. The judge concluded that the appellant was not a genuine Christian but that even if he were he would not be at risk on return. He wrote that the appellant:

"56. ...would only face persecution by the state if he was a Christian and had converted to Christianity from another religion and actually sought to convert others. He states that he has been attempting to convert others to Christianity but has so far not achieved any converts. According to the Country Information Policy Guidance dated March 2018 the level of discrimination faced by Christians born into the religion who are not actively evangelising is not sufficiently serious in its nature and frequency as to amount to persecution or serious harm. They would attract the adverse notice of authorities on return to Iran and be at risk of persecution if they had practised evangelical activities and would do so publicly. This is not the case of the appellant who, if he has been taking part in Christian activities, has done so discreetly. In respect of ordinary converts, that is to say those who are not active evangelisers there is a risk but not a real risk of serious harm if returned to Iran. He will be able to practise Christianity discreetly. This conduct would be consistent with the decision in **HJ (Iran) [2000]**.

57. Furthermore, his failure to await the outcome of his asylum application in Austria goes to his credibility under Section 8 of the Asylum, Immigration and Asylum (Treatment of Claimants, etc) Act 2004.”

The judge noted the appellant was receiving counselling for his mental health and had attempted suicide in 2017 when he was informed he might be returned to Iran. However, it had been confirmed that he was not a suicide risk since then as he himself had stated in reply to question 18.

The judge therefore dismissed the appeal.

9. The grounds of appeal asserted firstly that the judge had erred in his assessment of risk on return for an Iranian convert and by holding that only Christians who proselytised and had come to the attention of the authorities were at risk and ordinary converts who practised their faith discreetly were not at risk. The grounds suggested that while the judge, following the determination in **SZ and JM (Christians, FS confirmed) Iran CG [2008] UKAIT 00082**, might have reached his conclusions on the basis of applying **HJ (Iran) [2008] UKIAT 00044**, when he held that it was reasonably tolerable for Christian converts to have to hide their faith. This was clearly wrong as the Supreme Court had held when overturning that determination.
10. The grounds went on to state that the judge had failed to consider relevant factors when in determining credibility by not giving weight to the danger to the appellant if the adverse conclusions were wrong. The judge had erred in making adverse credibility finding based on the lack of documentary evidence of the appellant’s baptism from Iran: such documents could not be sent. The judge was effectively implying that corroboration was necessary which was incorrect when considering asylum jurisprudence. They referred to the fact that the judge had accepted that the conversion of dates from the Iranian calendar to the Gregorian calendar could cause confusion.
11. While the judge had accepted that the appellant attended church it was stated that the judge had erred in concluding that the appellant was not sincere in his beliefs. The grounds referred to a judgment in the Administrative Court by Judge Gilbert in **SA (Iran) v SSHD [2012] EWHC 2575 (Admin)** which had stated that it was not appropriate for a judge to reach firm conclusions about a professed conversion when the convert had been raised in a different culture.
12. Permission was granted by Judge of the First-tier Tribunal Grant-Hutchison who stated that it was arguable that the judge had erred in law in his assessment of risk on return for an Iranian convert and in holding that the decision in **SZ and JM** that only Christians who proselytise and came to the attention (*of the authorities*) were at risk and that ordinary converts who practised their faith discreetly were not at risk : the appellant’s evidence was that he attended church discreetly in Iran due to fear of persecution. She considered that it was arguable that the judge might

also have erred in making adverse credibility findings in regard to the appellant's faith because there was no documentary evidence of his baptism from Iran and by accepting that dates could be confused because of the change in calendar.

13. At the hearing before me Mr Jafar referred to the grounds of appeal and stated that the judge was wrong to consider the appellant would not be at real risk of persecution on return. He stated that the judge had erred in his interpretation of the judgment in **HJ (Iran)** – the issue was that if it were the case that the appellant would act discreetly because of fear of persecution that in itself would mean that he would be entitled to asylum. The judge therefore should have assessed whether or not the appellant would act discreetly. Moreover, he stated that the letter from Reverend Mehr was not challenged and that the judge should not have required corroboration of the date of the baptism.
14. In reply, Mr Kotas stated that the judge was entitled to find that the appellant was not a genuine Christian. He referred to the conclusions in the Reasons for Refusal Letter and said that the matters such as the appellant's lack of knowledge of Easter and the date of Christmas indicated that his claim was not credible. He asked me to find there was no material error of law in the determination and to place weight on the fact the appellant had returned to Iran after claiming asylum in Austria.
15. I consider there is no material error of law in the determination of the Judge. The reality is that he did assess the evidence and reached a conclusion thereon – that the appellant was not credible – which was fully open to him. The various points made in the Reasons for Refusal Letter are cogent – the fact that the appellant could not explain the meaning of Easter let alone the date of Christmas, the fact that he thought that there were only ten disciples and indeed the fact that he returned to Iran despite having left Iran and claimed asylum in Austria, all indicate that his claim to be a Christian convert was not credible. Indeed, there is a lack of evidence relating to his wife's uncle whom he claimed was a senior member of the Sepah but was unable to set out his rank, let alone the lack of clear evidence of when he was baptised.
16. The judge having found the appellant was not credible the issue of whether or not he would behave discreetly or would or would not proselytise on return is irrelevant as if he were not a genuine Christian convert he would not wish to do so. Therefore, while I consider that the judge may have erred by referring to the decision of the Tribunal in **HJ (Iran)** that is not material to the decision: there was simply nothing to indicate that if the appellant were a Christian convert – and the judge was entitled to conclude that he is not – he would not act discretely: that is what he had done in Iran and there was nothing to indicate that he had proselytised here, or would be able to do so given his lack of knowledge of Christianity.

17. I note that it is not argued that the judge had erred in his consideration of the rights of the appellant under Article 8 of the ECHR.
18. For these reasons I find that there is no material error of law in the determination of the Immigration Judge and I dismiss this appeal.

No anonymity direction is made.

Signed: 

Date: 1 March 2019

Deputy Upper Tribunal Judge McGeachy