



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

Appeal Number: PA/02484/2016

THE IMMIGRATION ACTS

**Heard at Glasgow
on 6 July 2017**

**Decisions and Reasons
Promulgated
on 17 July 2017**

Before

UPPER TRIBUNAL JUDGE MACLEMAN

Between

**M A
(Anonymity direction made)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr T Haddow, Advocate, instructed by Latta & Co,
Solicitors

For the Respondent: Mr M Matthews, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. The appellant is a citizen of Iran. He sought asylum because although heterosexual, he had been involved in a homosexual encounter, which became known to the *Ettela'at*.
2. The respondent declined to accept his claim, for reasons explained in a letter dated 25 February 2016.

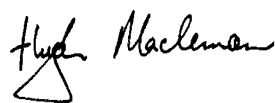
3. The appellant appealed to the FtT, in course of which he additionally claimed that he had converted in the UK to Christianity.
4. FtT Judge Blair rejected both claims, and dismissed the appellant's appeal, for reasons explained in his decision promulgated on 20 December 2016.
5. The appellant sought permission to appeal to the UT, on grounds set out in an attachment to his application dated 30 December 2016. FtT Judge Pedro refused permission on 28 March 2017, on the view that the grounds were only disagreement.
6. Permission was sought from the UT, on the same grounds. UT Judge Rintoul granted permission on 9 May 2017, although observing (accurately) that the grounds were "of wholly unnecessary prolixity, being comfortably longer than the decision of Judge Blair".
7. Mr Hadow (who was not the author of the grounds) helpfully provided outline submissions at sensible length, framed by reference to the 3 grounds but in reverse order. He expanded upon them orally, clearly and in detail, by reference to a meticulously prepared bundle of the relevant materials.
8. Mr Mathews followed the same order. He maintained that some of the submissions were not open to the appellant in terms of the grounds on which permission had been granted, and were not points which should "obviously" be admitted; Mr Hadow argued that some issues were "Robinson" obvious, and others were permissible expansion upon the grounds.
9. I deal with the grounds in the order used at the hearing.
10. Ground 1 is that the FtT erred in its approach to the claimed conversion:
 - (1) by failing to give very significant weight to the opinions of witnesses in positions of religious leadership, as required by *SA (Iran)* EWHC 2575 at [24] and *Dorodian* 01/TH/01537 at [8];
 - (2) the need for a compelling reason to determine the case other than by considering whether the appellant is an active participant at church, *SA* at [24]; and
 - (3) there must be a real risk that professing Christianity and behaving as a Christian may be taken in Iran as evidence of apostasy, *SA* at [24] and *Dorodian* at [8].
11. The authorities relied upon do not vouch the propositions which the appellant sought to derive from them.
12. *SA* is a decision of a Deputy Judge of the High Court, and not binding on the FtT or on the UT. The passage relied upon is *obiter*. It is a passing statement (although a very strong one) of the difficulty of examining the

genuineness of a claimed religious conversion. It establishes no principle of general application to Christian conversion cases.

13. *Dorodian* is a decision of the Immigration Appeal Tribunal from 2001. It is available for reference, but is not an authority the FtT or the UT is bound to follow. It says that no-one should be regarded as a committed Christian unless vouched for by a minister of a church. It does not say that an appellant vouched for by a minister should be found to be genuine. That always remains a question for the judge to answer on all the evidence.
14. No case was put to the FtT that the appellant's conversion, even if not genuine, might place him at risk in Iran as an apostate.
15. Any such case would face a series of formidable hurdles.
16. The respondent in her decision did not accept that the appellant left Iran illegally. The appellant did not try to set up in the FtT any case that he might be detected as a returning failed asylum seeker, or that he might be questioned about his activities in the UK. There is no reason to think that he cannot, if he chooses, return on his own passport without attracting attention. Even if he were to be questioned, there is no reason to infer that he would in fact answer by confessing to a falsely manufactured claim. There was nothing before the FtT by which it might sensibly have found that the appellant's involvement in Christianity in the UK might come to attention of the authorities in Iran. In this branch of the case, I uphold the submission by Mr Matthews that the line of argument was not put in the FtT, does not arise from the grounds of appeal to the UT, is not obvious, does not have strong prospects of success, and should not be admitted; but in any event, I find it of no merit.
17. Ground 2 is error in the judge's analysis of claimed events in Iran:
 - (1) by finding at [34] inconsistency over whether the appellant attended one or two parties in Iran, where no such inconsistency existed;
 - (2) by finding at [35] inconsistency between the appellant's account of his homosexual relationship or encounter as the appellant narrated, and as told to a witness from the church, when no such conclusion could reasonably be drawn from the evidence; and
 - (3) by finding at [29] implausibility and improbability in the appellant's account about not leaving the party, and not rejecting unwelcome sexual advances, where there was none.
18. Despite Mr Hadow's careful probing of the evidence, I am not satisfied that these points disclose factual error. Mr Matthews demonstrated by reference to different passages in the various statements that the appellant's evidence was not entirely reconcilable over the number of parties he attended. The account given by the appellant did differ from what the witness said he understood from the appellant. Some of the discrepancies were rather minute, and some arose through second hand

accounts; their significance was obviously debatable, but their resolution was the function of the FtT. The judge gave these issues no more significance than he was entitled to do, and there were other reasons for his decision. This ground resolves into disagreement rather than into error of law.

19. Ground 3 maintains that the judge assessed the conversion claim by way of pre-judgment, based on prior assessment of events in Iran, and not in the round.
20. One of the points made under this heading was that there was no reason why it would avail the appellant to keep a claim in reserve, and that if false it might have been more likely to be raised earlier, a possibility the judge failed to consider. However, I prefer the submission for the respondent that it was entirely rational for the judge to conclude as he did at [55] - [56] that this was deliberately kept in reserve as a "plan B" and that if genuine this is a matter which would naturally have emerged in response to questioning at interview.
21. A fair reading of the decision does not bear out that the credibility of the conversion claim was decided only by the prior assessment and not by the evidence supporting it. The judge states his overall conclusion at the outset of his decision at [2], a matter criticised in the original grounds but (rightly) not adopted by Mr Haddow. He says at [38] that evidence from the church witnesses is entitled to respect, but like any evidence is to be weighed in the round. He makes a reasoned assessment of the evidence from the church at [42] - [51]. Although he finds the evidence generic rather than specific to the appellant (a properly explained view) he does not find that the witnesses are not genuine, rather that the appellant has misled them - [60]. The appellant has not identified anything in the decision to show that the judge failed to consider the evidence in the round, as he directed himself to do, or that he pre-judged, based on the failure of the original claim. He gave his findings thereon no more weight than was within his rational scope. This ground resolves into no more than another heading for disagreement with a factual conclusion properly reached.
22. The decision of the First-tier Tribunal shall stand.
23. An anonymity direction was made in the FtT. The matter was not addressed in the UT, so anonymity has been preserved in this decision.



7 July 2017
Upper Tribunal Judge Macleman

