



**Upper Tribunal  
(Immigration and Asylum Chamber)**  
PA/00492/2017

Appeal Number

THE IMMIGRATION ACTS

Heard at Newport  
On 23<sup>rd</sup> February 2018

Decision and Reasons Promulgated  
On the 27<sup>th</sup> February 2018

Before

DEPUTY UPPER TRIBUNAL JUDGE PARKES

Between

M P B  
(ANONYMITY DIRECTION MADE)

Appellant

And

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

For the Appellant: Mr A Swain (Counsel, instructed by Kamaljit Sandhu)  
For the Respondent: M (Home Office Presenting Officer)

DETERMINATION AND REASONS

1. The Appellant is a national of Iran. He arrived in the UK on the 4<sup>th</sup> of June 2016 and claimed asylum that day following which he went through a screening interview before the full interview and the Refusal Letter being sent out. That was dated the 6<sup>th</sup> of January 2017.
2. After the Refusal Letter had been sent the Appellant appealed by Notice and Grounds of Appeal of the 17<sup>th</sup> of January 2017. The appeal was listed quickly on the 16<sup>th</sup> of February 2017. The Appellant sought an adjournment to obtain legal representation and that was granted. Again the appeal was listed quickly being next arranged for the 1<sup>st</sup> of March 2017, the Notice of Hearing having been sent on the 16<sup>th</sup> of February 2017.
3. The Appellant attended the hearing on the 1<sup>st</sup> of March 2017 again without legal representation. The Appellant did not apply for an adjournment but the issue was considered by the Judge of his own volition in paragraphs 2 to 7 of the decision. The Judge acknowledged that in the relatively speedy listing and re-listing of the appeal the time had been limited. The Judge had regard to the Appellant's previous representation and the obscurity of why they had not been able to continue. In the circumstances the Judge continued with the hearing and in the course of doing read the

Refusal Letter to the Appellant through the interpreter. That was the first time that the Appellant had had the Refusal Letter read to him in a language he understood. The Judge went on to dismiss the appeal for the reasons given in paragraphs 41 to 48 of the decision.

4. The Appellant sought permission to appeal on a number of grounds but principally on the ground that it had been procedurally unfair to continue with the hearing and that an adjournment should have been granted to the Appellant to obtain legal representation. It is also argued that as he had only been made aware of the contents of the Refusal Letter at the hearing when it was summarised through the interpreter was insufficient to enable the Appellant to participate effectively in the hearing. Other grounds related to the emphasis on the contents of the Appellant's screening interview and his wife citing his conversion as a ground for divorce.
5. Permission to appeal was granted by Upper Tribunal in a decision of the 28<sup>th</sup> of September 2017. In granting permission Upper Tribunal Judge Jackson was also sympathetic to the complaint that the Judge had placed too much weight on the Appellant's screening interview and the consideration of the Appellant's Christianity relied heavily on the earlier findings. The complaint with regard to the Appellant's divorce had less merit.
6. At the hearing Mr Swain maintained the grounds and relied on his skeleton argument. His focus was on the failure to adjourn and the consequent difficulties that that would have placed the Appellant in. There was a bundle that had been served which was not directly relevant to whether there had been an error but did indicate how the case would have been presented had the Appellant been represented.
7. The Home Office maintain that the decision is adequately reasoned and that the Judge was entitled to continue with the hearing having regard to the overriding objective. It was also argued that the other grounds were also without merit.
8. I have considerable sympathy with the Judge but with some hesitation have come to the conclusion that the failure to adjourn was a procedural error such that the decision cannot stand. Although the Judge was right to observe that the Appellant had had some 8 weeks since the date of the Refusal Letter to obtain representation the time period he was considering was actually much shorter. The Appellant was granted an adjournment on the 16<sup>th</sup> of February 2017 specifically to obtain legal representation but relisting took place within 14 days.
9. The difficulties that the Judge referred to pre-dated the adjournment on the 16<sup>th</sup> of February and which were the foundation on which the adjournment was granted. In reality the Judge was looking at the time that had arisen since the 16<sup>th</sup> of February, which was only 14 days of which there would have been 10 working days and an Appellant's bundle would have to be compiled and served 5 days before the hearing. The Appellant faced the additional handicap of not speaking English and needing a Farsi speaking interpreter. The solicitor previously identified had not assisted the Appellant and the Appellant had attended without a replacement then identified, if 6 weeks had been insufficient it is not clear why 2 with the limitations identified could be regarded as being so.
10. There are other factors to consider. The Appellant would have known that his claim had been refused but until the Refusal Letter was summarised to him would not have known what the objections were. The Judge rightly observed that the Appellant's credibility was central to the case but in Christian conversion cases there are the Darodian guidelines which he would not have been aware of and which the Judge does not appear to have had regard to.

11. If the re-listing had taken place after a longer period then the situation could have been very different. However as it was the Appellant had only 5 working days in which to obtain a solicitor who could speak his language or had the use of an interpreter, arrange a meeting to taken instructions including translating the Refusal Letter and then obtaining the required supporting evidence and serve it on the Home Office and Tribunal as required. In those circumstances I find that it was procedurally unfair for the Judge continue with the hearing without granting an adjournment and for a longer period of at least 4 weeks. On that basis the decision cannot stand but will have to be remade with no findings preserved.

## CONCLUSIONS

The making of the decision of the First-tier Tribunal involved the making of an error on a point of law.

I set aside the decision.

The appeal is remitted to the First-tier Tribunal, not to be heard by Judge Loughridge.

### Anonymity

The First-tier Tribunal made make an order pursuant to rule 45(4)(i) of the Asylum and Immigration Tribunal (Procedure) Rules 2005.

I continue that order (pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008.)

### Fee Award

In remitting this appeal to the First-tier Tribunal I make no fee award which remains an issue for the First-tier Tribunal at the conclusion of the appeal.

Signed:

Deputy Judge of the Upper Tribunal (IAC)

Dated: 23<sup>rd</sup> February 2018