



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

Appeal Number: PA/08841/2018

**THE IMMIGRATION ACTS**

**Heard at Field House**

**Decision and Reasons**

**On 16.4.2018**

**Promulgated  
On 25.4.2019**

**Before**

**DEPUTY JUDGE OF THE UPPER TRIBUNAL  
G A BLACK**

**Between**

**[S S]  
(ANONYMITY DIRECTION NOT MADE)**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: Mr J. Plowright (Counsel)

For the Respondent: Mr E. Tufan (Home Office Presenting Officer)

**ERROR OF LAW DECISION AND REASONS**

1. This was listed as an error of law hearing but in light of the concession made in the respondent's Rule 24 Notice I confirmed that there was an error of law in the First Tier Tribunal (Judge Moan) (FTT) promulgated on 5<sup>th</sup> September 2018. The grounds were made out and I proceeded by way of a continuation hearing to consider the evidence as to risk on return to Kurdistan as an apostate.

## **Background**

2. The appellant is a citizen of Iraq from Kirkuk and a Kurd. She claimed asylum on religious grounds, that having converted to Christianity she would be at risk of persecution and or ill treatment on return to Iraq from the government and ISIS. She will be returning to Iraq as a single parent with 4 children, one of whom has no registration card. The appellant fears physical harm from her family in Iraq, in particular her brother who is a member of the forces and who has threatened to kill her since her conversion.

## **FTT decision**

3. The FTT found the appellant's claim in general to be credible. It found that she had converted to Christianity [44] and that her family in Iraq were opposed to this and she had received threats. The FTT took into account evidence of a translated message from the appellant's brother referring to her as an apostate and the only solution was to kill her. The FTT accepted this evidence and found that the appellant had not embellished her account [38]. The FTT considered the background material and concluded that there was discrimination towards Christians in Kurdistan. The background material suggested that CSID cards issued to a Muslim could not be changed as a result of conversion to another faith, the FTT found that the effect of this was unclear [52]. The FTT found no inconsistency in the appellant's account that she had separated from her husband because of her conversion and that he maintained contact with the children [42]. The FTT concluded that the appellant could return to Iraq or Kurdistan where she would be able to obtain protection and practise her religion freely [54 - 58].

## **Grounds of appeal**

4. In grounds of appeal the appellant argued that the FTT erred by having found that she had converted to Christianity it failed to make sufficient findings as to risk on return to Kurdistan as an apostate. There was a fundamental difference in treatment towards Christians and those who converted from Islam. Further the FTT failed to give weight to the fact that the appellant was a member of an Evangelical church and she considered proselytising as an inherent part of her faith.

## **Permission to appeal**

5. Permission to appeal to the Upper Tribunal (UT) was granted by FTJ Scott Baker on 16.10.2018.

## **Rule 24 notice**

6. In a Rule 24 notice dated 20.11.2018 the respondent did not oppose the grounds for permission and invited the Tribunal to determine the appeal with fresh oral (continuance) hearing to consider risk on return.

## **Hearing & Submissions**

7. There was no interpreter booked for the hearing. I indicated that an interpreter could be arranged for the afternoon and the hearing could be postponed until then.
8. Mr Plowright responded and sought to rely additional pieces of documentary evidence in the form of a Vibe message from the appellant's brother issuing threats to her, a photograph of the brother and a letter re the appellant's faith. Mr Tufan confirmed that he had no objection to this evidence being adduced in the light of the findings made by the FTT that the appellant had been sent a Vibe message containing threats by her brother. Accordingly Mr Plowright decided to proceed on the basis of submissions. Mr Tufan had no wish to cross examine the appellant.
9. Mr Plowright relied on the grounds of appeal and background material which included the following: Iraq 2017 International Religious Freedom Report, COIR Iraq: religious minorities August 2016, and Iraq: Internal relocation, civil documentation and returns February 2019. He emphasised the difficulties that would be faced by the appellant in the event that she did not register her child as Muslim and that would result in her being unable to obtain state support, education etc. Although included in the appellant's bundle, the unreported UT case was not relied on. The appellant faced difficulties because she would return as a lone parent, there were no patrilineal relatives to assist her and she had converted to Christianity. The risk shad to be assessed in that context.
10. In response Mr Tufan acknowledged the Rule 24 Notice and submitted that the background material established that there was discrimination towards Christians and converts but not persecution. The appellant would be able to relocate to an area away from her family and it was not plausible that her brother would seek to track her down. She may well have difficulties if indeed she was returning as a single parent. The recent Home office letters indicated that there were no difficulties in registering for a CSID card.

### **Discussion and conclusion**

11. I take as my starting point the findings made by the FTT summarised above in paragraph 3 that the appellant has converted to Christianity and been baptised. She is a Kurd from Kirkuk and she has an Iraqi CSID card which would allow her to return to Iraq and it was agreed that there were flights to IKR where she could return. The FTT found that the appellant was unlikely to have the support of her family in Iraq given that they opposed her decision to convert to Christianity [48]. The FTT concluded that she could continue to practise her religion freely and relocate to Kurdistan.
12. It is clear from the decision and reasons that the appellant pursued her claim on the basis that she would be considered to be an apostate, that she was a member of an Evangelical church and that she would be active in proselytising her faith. These are material aspects of her claim that the FTT did not fully consider. The background material adduced before the FTT was the report on "Kurdistan - conditions of Christian Converts - July 2017" which in effect summarises the background material that was

presented to me. The background material relied on by Mr Plowright establishes that Christians face discrimination in Iraq and the IKR. The emphasis in the material is on Christians rather than on converts but I fully accept that overall the risk of persecution for Christians in Iraq/IRK is not shown. The COIR dated January 2016 at section 5.3 refers to the UNHCR guidelines which show contradictions in Iraq where the law allows for religious conversion but the personal laws do not allow for the change in religious status. It states that *“given the widespread animosity towards converts from Islam, and the general climate of religious intolerance, the conversion of a Muslim to Christianity would likely result in ostracism and /or violence at the hands of the convert’s community, tribe or family. Many, including (Sunni & Shi’ite) religious and political leaders, reportedly believe that apostasy from Islam is punishable by death or even killing of apostates as a religious duty. Additionally, Christian converts risk being suspected of working with the MNF-1/USF-1 or more generally the West...”*

13. I am satisfied that the appellant faces risk of ill treatment /death from her family in Iraq. The evidence shows that her brother has sent threatening messages and it is reasonable that as a member of the forces he would be able to locate her and have the resources to do so. Accordingly internal relocation to Kurdistan is the key consideration.
14. I am satisfied that the appellant would be able to enter Kurdistan (IKR) as she is in possession of a valid CSID as do three of her children. The fourth child has no card. The background evidence provides that *“Christian converts reported being forced to choose to register their child as a Muslim or to have the child remain undocumented, affecting their eligibility for government benefits.”* The personal status law requires administrative designation of minor children as Muslim even if the parent is a convert. Without an identity card converts may not register their marriages, enrol children in school, acquire passports or obtain some government services such as ration card allocation for basic food. (see International Freedom report 2017). I am satisfied that the appellant could face difficulties with regard to one of her children who would be either undocumented or she would be forced to register him as Muslim. There is a level of uncertainty as to how these processes apply in practice but I give the benefit of the doubt to the appellant. Following the guidance/ headnote in **AHH** with reference to **AA (Iraq) v SSHD para 9** it is necessary to consider on a case by case basis the extent to which any assistance is likely to be provided. For those without family, as in this case, there are limited options for accommodation, and employment especially for lone women who are very unlikely to secure legitimate employment. The appellant would be returning without any male support and no family support. She has 4 children to support. I find that she would be vulnerable as a lone female parent who has converted to Christianity who wishes to proselytise her faith and that given the difficulties faced as outlined above in terms of accommodation and employment and education it would be unduly harsh such that internal relocation is not an option.

## **Decision**

15. I go on to remake the decision and I allow the appeal on protection grounds.

Signed

Date 17.4.2019

GA Black  
Deputy Judge of the Upper Tribunal

NO ANONYMITY ORDER  
NO FEE AWARD

Signed

Date 17.4.2019

GA Black  
Deputy Judge of the Upper Tribunal