



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

Appeal Number: AA/06443/2014

THE IMMIGRATION ACTS

Heard at Glasgow

**Decision and Reasons
Promulgated**

On 15 September 2015

On 16 September 2015

Before

UPPER TRIBUNAL JUDGE MACLEMAN

Between

MAHDI HASANZADEH

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms S Smith, of Latta & Co, Solicitors

For the Respondent: Mr A Mullen, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. The appellant is a citizen of Iran, born on 21 March 1977. He sought asylum in the UK, saying that following a romantic mishap he was at risk from the Iranian Revolutionary Guard Corps. The respondent rejected his claim. He appealed to the First-tier Tribunal.
2. A few days before his appeal to the First-tier Tribunal was to be heard, the appellant produced a statement that he had converted to Christianity since coming to the UK, and so would be at risk on return.

3. In his determination promulgated on 3 February 2015 Judge Dennis declined to deal with the matter, and said at paragraph 23, "The appeal is allowed insofar as it is remitted back to the respondent to consider and reach a decision on the appellant's new and distinct basis of claim".
4. In his grounds of appeal to the UT the appellant says that the judge erred in law by failing to decide his case.
5. In a written response to the grant of permission the respondent concedes that there has been material error of law, because it was the function of the judge to determine the appeal in respect of all matters relied upon.
6. Mr Mullen suggested that there were comments by the judge which amounted to findings which ought to be preserved, and that the remittal should be to the same judge. Ms Smith submitted that there should be an entirely fresh hearing before another judge. I think that is the safer course.
7. The determination of the First-tier Tribunal is **set aside**. There are no findings to preserve. Under s.12(2)(b)(i) of the 2007 Act and Practice Statement 7.2 the nature and extent of judicial fact finding necessary for the decision to be remade is such that it is appropriate to **remit the case to the FtT**. The member(s) of the FtT chosen to reconsider the case are not to include Judge Dennis.
8. No anonymity direction has been requested or made.



Upper Tribunal Judge Macleman

15 September 2015