



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

Appeal Number: AA/00648/2010

**THE IMMIGRATION ACTS**

**Heard at Birmingham  
on 23<sup>rd</sup> May 2013**

**Date Sent  
On 25<sup>th</sup> June 2013**

**Before**

**UPPER TRIBUNAL JUDGE HANSON**

**Between**

**N H B  
(Anonymity order in force)**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: Mr Howard of Fountain Solicitors.

For the Respondent: Mr Smart Senior Home Office Presenting Officer.

**DETERMINATION AND REASONS**

1. This appeal was remitted by the Court of Appeal in an order dated 11<sup>th</sup> February 2011.
2. In addition to the issues the Tribunal is to consider set out in the Statement of Reasons, the appellant is said to have converted to Christianity. In light of the decision in NM (Christian Converts) Afghanistan CG [2009] UKAIT 00045 it was agreed this element of the claim would be considered first as, if he was found to be a genuine convert, the appeal must be allowed.

## **Discussion**

3. The appellant is an Afghan national of Hazara ethnicity born on the 1<sup>st</sup> June 1993. In his witness statement dated 2<sup>nd</sup> May 2013 [pages 29 – 31 A's appeal bundle] he sets out details of his conversion from Islam to Christianity.
4. The appellant stated he started to attend church in January 2011 and has continued to do so since that time. His church is the Riverside Christian Church in Mosley in Birmingham. He attends services on Sunday and sometimes during the week too. He was baptised on the 10<sup>th</sup> April 2011 and explains to his friends how he feels his life has changed through his finding Jesus and God and through his faith. The appellant also attended the Alpha Course which taught him more about the Christian faith.
5. The appellant was the subject of a rigorous cross examination by Mr Smart in relation to his beliefs and elements of the Christian faith. The replies he gave and the way in which they were given demonstrated an understanding of the Christian faith and elements of daily worship in line with the practices of the church he attends, which make his claim to have attended and to be a convert plausible. Nothing arose in cross-examination that cast doubt upon his claim.
6. The appellant was followed by Mr Andy Mackie a Church Leader of the Riverside Church. He has filed letters in support [A's bundle, 121 -122]. In his oral evidence he confirmed the core of the appellant's case in relation to his attending the Alpha Course, his attendance at church and knowledge and understanding of the Christian faith. Mr Mackie was cross examined and I found him a credible witness who corroborated the appellant's claim to have attended the Alpha Course (a course designed to explore the basics of the Christian faith), to have been baptised and therefore converted and, in whose opinion, it is a genuine conversion.
7. Additional documentary evidence includes letters from other church goers [A's bundle, 123 – 127] confirming his baptism, attendance on the Alpha Course, and regular attendance at weekly services, a Baptism Certificate dated 10<sup>th</sup> April 2011 [129], photographs of the baptism [131-135], and a copy of the church database entry for the appellant [130].
8. I cannot look into the soul of the appellant but having considered the available evidence I find to the lower standard applicable to appeals of this nature that he has substantiated his claim to have converted to Christianity and to be a genuine convert.

9. In NM, the Tribunal held that an Afghan claimant who can demonstrate that he has genuinely converted to Christianity from Islam is likely to be able to show that he is at real risk of serious ill-treatment amounting to persecution or a breach of his Article 3 ECHR right on return to Afghanistan.
10. It was accepted before the Tribunal that in light of NM the appellant faces a real risk of persecution by reason of his new religion and perception as an apostate in Islam, such as to entitle him to a grant of international protection as a refugee.

### **Decision**

11. **The First-tier Tribunal Judge materially erred in law. I set aside the decision of the original Judge. I remake the decision as follows. This appeal is allowed.**

Anonymity.

12. The First-tier Tribunal did not make an order pursuant to rule 45(4)(i) of the Asylum and Immigration Tribunal (Procedure) Rules 2005.

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

Signed.....  
Upper Tribunal Judge Hanson  
Dated the 25<sup>th</sup> June 2013