

**REFUGEE STATUS APPEALS**  
**AUTHORITY**  
**NEW ZEALAND**

**REFUGEE APPEAL NO 76212**

**AT AUCKLAND**

<b><u>Before:</u></b>	A N Molloy (Chairperson) B A Dingle (Member)
<b><u>Counsel for the Appellant:</u></b>	D Mansouri-Rad
<b><u>Appearing for Department of Labour :</u></b>	No Appearance
<b><u>Dates of Hearing:</u></b>	1 & 2 July 2008
<b><u>Date of Decision:</u></b>	14 January 2009

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**DECISION DELIVERED BY B A DINGLE**

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[1] This is an appeal against the decision of a refugee status officer of the Refugee Status Branch (RSB) of the Department of Labour (DOL), declining the grant of refugee status to the appellant, a national of Iran.

[2] The appellant is a single woman in her mid-20s. The crux of her claim is that she was arrested, detained and prosecuted by Iranian authorities for having a clothing shop in which she manufactured and sold clothes which violated *hijab* rules about the appropriate form of dress for women. Although she was later released from custody, she breached her bail conditions and fled Iran before a sentence for her conviction was handed down. The appellant also claims to have converted to Christianity since her arrival in New Zealand and says that this will exacerbate her situation should she now return to Iran.

[3] The two issues to be determined in this case are whether the appellant's evidence is credible and whether she has a well-founded fear of being persecuted in Iran.

## **THE APPELLANT'S CASE**

[4] What follows is a summary of the evidence given in support of this appeal. An assessment of the evidence follows later in the decision.

[5] The appellant is one of six children born to Muslim parents in a large northern city. Her parents continue to reside there. The appellant's father is a self-employed tradesperson and runs a business and shop in the home city.

[6] While her parents practise the Islamic faith, the appellant and her siblings were under no pressure to be active in the faith and they participated with varying degrees of enthusiasm.

[7] The appellant completed primary and secondary school, graduating with a high school certificate in 2002. During her school years, the appellant was frequently reprimanded by school authorities for breaching *hijab* rules. She would receive verbal warnings and have to sign undertakings that she would dress according to the Islamic code. Because of these *hijab* related problems, the appellant did not have the necessary disciplinary points from school to allow her to enter a state university. After graduating from high school, the appellant spent two years studying for her university entrance examinations and gained entrance to an Azad university to study her chosen course of clothes design and sewing.

[8] In 2004, the appellant began her diploma course. It was a two and a half year course and she completed it without difficulty. During her study she also worked part-time in a nearby city for a clothes designer and shop owner, Mrs S. After graduation, the appellant worked full-time for Mrs S for a period of months before opening a shop of her own.

[9] Mrs S shared the appellant's dislike of the Islamic dress code and the restrictions on style, colour and other aspects of women's clothes which were being enforced by the authorities. They used to discuss these matters and other issues relating to women's rights in Iran. The appellant was aware that Mrs S was associated with a women's rights group in Iran and, in support of that group, Mrs S would attend demonstrations and sign petition.

[10] From approximately 2005 on, the appellant was frequently reprimanded by the authorities for her own *hijab* violations. The appellant says that almost every time she left the house she would be told that her clothing was inappropriate and that she should adopt more a conservative dress style. The appellant resisted

these demands because she believed it was insulting to women to make them wear conservative Islamic clothing and she was unwilling to wear boring, loose-fitting and long clothing all of the time. She considered that her creativity and personal expression was being stifled by the *hijab* demands.

[11] On several occasions, the appellant was arrested and detained for breaching the *hijab* code. In 2005 (her second year of tertiary study) she was arrested by the disciplinary forces while out shopping. She was taken to a disciplinary forces building and was held in custody for approximately one and a half hours. While there, the officers talked to her and she signed an undertaking promising to wear more appropriate clothes in the future. She was then permitted to telephone her family and her father came to collect her. The appellant did not change the way she dressed or any other aspect of her appearance as a result of this arrest.

[12] A subsequent arrest occurred in 2006 as she came out of a shopping centre. She was stopped by two women who commented on the way she was dressed and then took her to the disciplinary forces building. While there, she was again reprimanded and held for approximately one and a half hours. No reference was made to her previous arrest and, as before, she was released to her father without having to pay a fine.

[13] In mid-2006, the appellant finished studying and began working fulltime for Mrs S. After a couple of months, Mrs S asked the appellant to open a new store in a different location, which she did. The appellant had no problems related to her association with Mrs S or working in her shops. However, she did recall that on one occasion while the appellant was working for her, Mrs S was arrested at a demonstration and was detained for several hours. After giving a written undertaking that she would not continue her support of the women's rights movement, Mrs S was released.

[14] Throughout the years of tertiary study and work, the appellant would often meet up with an old school friend, FF, and they would make their morning commute together. FF was studying at a nearby university and was also involved in a women's organisation although the appellant was not sure exactly what activities she took part in. FF had once asked the appellant to sign a petition in relation to women's rights and the appellant had done so.

[15] In early 2007, the appellant witnessed the arrest of FF. While waiting for a

train, security officers approached FF and arrested her, taking her away in a car. Although the appellant asked what the grounds for arrest were, the officers did not provide her with any information. The appellant immediately returned home and informed FF's family of the arrest.

[16] Also in early 2007, the appellant was apprehended by a male officer as she left a metro station. He took her to a van where two uniformed women from the security forces began questioning her. They asked the appellant to get into the van and when she tried to struggle and escape, they forcefully pushed her in. The appellant was extremely scared because, as a result of FF's arrest, she believed that she may never be released from custody again. Once in the van, the officials locked the door and the appellant and three or four other women who had been arrested were almost immediately driven to the enforcement headquarters.

[17] When they arrived at the headquarters, the women were held together in a detention room. After approximately an hour, the appellant and other women were photographed and made to give an undertaking that they would not violate *hijab* rules in the future. They were told that they could make a call to their family and if they were collected by 9pm, they could leave that evening. The appellant called her family and her oldest sister came to collect her with conservative clothes for her to wear. As the appellant left, the arresting officer commented that if she was arrested again, she would go to court and be put into prison.

[18] As a result of FF's arrest, the appellant became so concerned for her own safety that she no longer travelled to work. She was also anxious about leaving the house for any reason in case she should be arrested and taken into custody herself.

[19] On account of FF's arrest, the appellant's parents no longer wished her to travel so far to work. They agreed that it would be better if the appellant could open her own business near home and so the appellant, in conjunction with her father, set about finding premises for a clothes-making and retail shop in the home city.

#### The appellant's shop

[20] In around March 2007, the appellant established the shop in a suburb close to her home. In order to operate a business, she had to request clearance from the city council, the trade office and various other officials. She then had to submit

documents and a payment to get a business licence. She completed all the formal requirements and opened the shop within about a week of finding the premises.

[21] Within a month or so of opening the shop, the appellant was informed that FF had died in custody. She was unable to get any real information from FF's family as to the circumstances of the death or where FF had been held in custody. FF's death made the appellant feel more concerned for her own safety and more anxious about coming to the attention of the security forces or other Iranian authorities.

[22] Approximately two months after opening the shop, Iranian officials visited and complained to the appellant that the clothes she was selling were not appropriate for Iranian women because they were too fitting or not covering enough of the body. The officials confiscated the clothes and mannequins they considered inappropriate. As they left the shop, they presented the appellant with a summons document, requiring her to attend the *Nafased* (Corruption on Earth) office at an appointed time one week later.

[23] The appellant attended the office accompanied by her brother, hoping that her clothes and mannequins would be returned to her. However when she arrived she was reprimanded by an official about the way she was dressed because she was wearing the sorts of clothes which the officials had already confiscated. She was also rebuked for manufacturing and selling inappropriate clothes in her shop. After some time, she was asked to sign an undertaking that she would not repeat her offence and she was warned that if she did re-offend, her shop would be closed. The appellant signed the undertaking and returned home.

[24] As a result of that warning, the appellant began making bridal clothes which were less controversial, hoping these would help boost sales in her shop. She still made some clothes considered inappropriate by the regime because she thought that if she only made clothes which accorded with strict *hijab* rules she would not have any customers.

[25] In approximately June 2007, about two to three weeks after the first visit, more officials visited the shop and gave the appellant a further verbal warning about her clothes. The appellant apologised and the officials left without taking further action.

### Importing clothes

[26] In approximately September 2007, the appellant made contact through her cousin with someone who imported clothes from Turkey into northern Iran. Her cousin suggested that she purchase some and sell them in her shop. The appellant made one order and found that the clothes were very popular and sold quickly. She made a further order and awaited their arrival. However, the person delivering the clothes was arrested by officials and, because the name of the appellant's shop was on the boxes, she too was taken in for questioning.

[27] When the officials arrived at her shop to collect her, the appellant was terrified about the consequences and so rang her mother to let her know what was happening. She was handcuffed, taken to the office and put into a room with an official and the clothes delivery man. She was reprimanded by the official and despite explaining that the clothes were for women to wear under the cover of appropriate outer garments the official was not placated. The appellant was then told that she would stay in custody for two days until her "file was completed".

[28] After two days in detention, the appellant was released on bail. Before she was released, her father had to submit his business licence as security.

[29] A few days after her release, the appellant was sent a summons to report to the authorities some days later. She reported once, at which time she was told that once her file had been processed by the court, she would receive a sentence of detention and possibly lashes. She was also told that she must continue to report every two weeks until such time as her sentence was to be served.

[30] At that point the appellant decided that she must escape Iran. She was terrified of being imprisoned and believed that she would be tortured and killed in custody. About 10 days after she was released on bail, the appellant went and stayed at her cousin's house and she departed Iran within a week. The appellant agreed with her family that she should travel to New Zealand where her sister lives and that she should apply for refugee status on arrival.

[31] The appellant's father and cousin helped arrange a false passport which contained her photograph but was in the name of someone else. The appellant left Iran by air, travelling from Imam Khomeini International Airport. She did not have any difficulties departing Iran. She flew to Dubai where she met another agent who took her first false passport and provided her with a second false

passport in a different name. She travelled from Dubai to New Zealand on this second passport and arrived at Auckland International Airport on 7 November 2007.

[32] The appellant applied for refugee status at the airport and was interviewed by an immigration officer on arrival.

[33] On 12 November 2007, the RSB received the appellant's Confirmation of Claim and, on 14 November 2007, she was transferred to the Mangere Refugee Resettlement Centre.

[34] In early December 2007, the appellant spoke to her parents by telephone. They have never received any further written summons or other documents relating to the non-appearance of the appellant at court or for her reporting obligations. Nor has her family received any documents relating to an official court charge, conviction or sentence. Her father has been visited at his shop by officials who asked why the appellant was not reporting. He told the officials that he does not know where the appellant is. He has been told that he will lose his business licence if she does not appear as required.

[35] Since arriving in New Zealand and particularly since she has moved in with her sister and brother-in-law (January 2008), the appellant has begun attending Bible study classes on Monday evenings and a Sunday morning church service at the Church of Christ (New Zealand) in Mt Roskill. In February 2008, the appellant indicated in a Sunday morning service that she wanted to become a Christian and she was baptised in May 2008 in a collective baptism service held twice yearly at the church.

[36] The appellant believes that if she now returned to Iran, she would be arrested immediately on arrival and would be punished for her previous offences of selling inappropriate clothes, and for her non-appearance at court and her breach of bail. The appellant does not believe that any of her current difficulties are related to her association with Mrs S, FF or the women's rights association. The appellant also believes that if she returned to Iran she would be at further risk because of her conversion to Christianity.

## **WITNESS EVIDENCE**

*Evidence of Garry Muir*

[37] Mr Muir is a New Zealand citizen and attends the Church of Christ (New Zealand) in Mt Roskill, a multi-cultural church with approximately 1,000 members. Mr Muir leads the Iranian fellowship group that meets on Monday nights for Bible study and on Sunday mornings for a communion service. Both of these meetings are translated from English into Farsi.

[38] Mr Muir provided some general background about the development by his church of Farsi-language meetings and services for the 15-20 Iranian members of the church. Mr Muir confirmed that the appellant's sister and brother-in-law have been attending the church for approximately five years and are well-known to him and other church leaders.

[39] He stated that he first became aware of the appellant when she was brought to a Sunday morning service by her sister. He also recalled that during a Sunday morning meeting in February 2008, the appellant publicly indicated her desire to follow Christ as a Christian. She was asked to repeat that commitment in front of the general church congregation, which she did, and then she received a more detailed explanation of Christianity, with the help of an interpreter. Mr Muir told the Authority that the appellant continues to attend Monday evening Bible studies and the Sunday morning meetings. She was baptised in May 2008, after indicating her desire to become a Christian and having been given a pamphlet explaining the meaning of Baptism.

[40] Prior to writing his letter in support of the appellant (dated 26 June 2008), Mr Muir had limited direct contact with the appellant because of the language barrier and other cultural restraints. In essence, his interaction with the appellant had consisted of greeting her at church services and meetings. After he had written his support letter, Mr Muir asked the appellant some questions about her Christianity, including why she became a Christian and what it meant to her to be a Christian. He told the Authority that some of her answers were a bit jumbled, but that she understood being a Christian meant you worship Jesus Christ and invite Him into your life.

[41] With regards to her Baptism, Mr Muir explained that a Baptism service is held twice each year in the church. The criteria for Baptism is that an individual states that they want to be a Christian (which the appellant did during a Sunday meeting), after which time they are given a pamphlet about Baptism and are invited to be part of the collective Baptism service.



[42] Mr Muir then confirmed his statement that “There is no doubt in my mind that she is a genuine Christian”. He told the Authority that he could see from her disposition that she has found a sense of peace and joy since she has adopted Christianity and that, as she came forward for prayer at the prayer meetings, he could see that things were happening for her in terms of her relationship with God. Mr Muir also provided the Authority with country information about the treatment of Christians in Iran, which he believes supports his contention that the appellant would be at risk of harm should she now return to Iran as a Christian.

*Evidence of AA*

[43] AA is the appellant’s brother-in-law and has lived in New Zealand with the appellant’s sister since approximately 2003. AA confirmed that the appellant has been living with him and his wife since January 2008.

[44] He described the appellant as being a very quiet and withdrawn individual who appears to have concerns for her safety because she does things such as closing windows and curtains during the daylight hours. AA also reported that the appellant was anxious and fearful while staying at the Mangere Accommodation Centre. It was during that period of time that he and his wife introduced her to Christian ideas in the hope that she would find some comfort and support. AA also stated that he had spoken with the appellant while she was still living in Iran about Christianity. He also confirmed that she has been attending Bible study and Sunday meetings with them at the Church of Christ and that she has adopted Christianity for herself.

[45] As to the circumstances which led the appellant to travel to New Zealand, AA was unable to provide much detail. He said that approximately 15 or 20 days before the appellant arrived in New Zealand, he was informed by her family in Iran that she would be travelling. The appellant’s mother told him that the appellant had a problem in Iran and that, because she was young and they had nowhere else to send her, they were arranging for her to come to New Zealand.

[46] Since the appellant’s arrival in New Zealand, AA has continued to make contact with her family. A week prior to the hearing, AA had spoken to the appellant’s mother and father. AA was told that the appellant’s father is having problems with his work licence because it was provided as security for the appellant’s bail. The consequences are that there are now some activities in his (the father’s) business which he is unable to do without that work licence.

Although AA was unable to provide specific details, he understands that the appellant's father is in trouble and might lose his business because of the problems with the work licence.

## **DOCUMENTS RECEIVED**

[47] Prior to the hearing, under cover of a letter dated 26 June 2008, counsel filed a memorandum of submissions, accompanied by four pieces of country information relating to Christians in Iran. Also submitted was a statement from SS (dated 26 June 2008), a letter from Mr Garry Muir (dated 26 June 2008) and a letter from Amnesty International (dated 14 March 2008). The Amnesty letter is addressed to Mr Mansouri-Rad and outlines Amnesty International's position on Iranian Christian converts. It was originally written to counsel in relation to another appeal.

[48] Under cover of a letter of 30 June 2008, counsel filed a letter from Dr Tony Wansborough (dated 24 June 2008) which was written as a referral letter to a psychiatrist (unnamed) to whom the appellant may have been referred. In that letter, Dr Wansborough stated that she first saw the appellant in January 2008 and

“... found her a very still, quiet, withdrawn person, who expressed great fear of being returned to prison. It was reported that she was withdrawn at home, nervous and tearful, with poor appetite, poor sleep and nightmares. She also suffered from headaches, nausea and vomiting. Her concentration is very poor.”

[49] The letter goes on to state that Dr Wansborough had prescribed various medications for the appellant, but does not outline her medical or psychological condition in any further detail. The letter also notes that the appellant presented at A&E in mid-June 2008, feeling unwell after taking her medication and she was observed overnight and discharged in the morning.

[50] As noted above, Mr Muir provided the Authority, through the appellant's counsel, various items of country information relating to Christians in Iran.

[51] At the close of the oral evidence, counsel sought leave to explore the possibility of obtaining further psychological evidence in relation to the appellant, seek documents from Iran and ascertain whether or not any further witnesses would be called.

[52] On 4 July 2008, counsel informed the Authority by letter that no further witnesses would be appearing to give evidence; no further medical evidence was

sought in relation to the appellant; that the appellant's father's business licence was being sought from Iran. Counsel also provided an explanation of the country information submitted by Mr Muir.

[53] Neither the appellant's father's business license, nor a copy thereof, has been produced before the Authority.

[54] All of the above information has been considered and will be referred to, where appropriate, below.

## **THE ISSUES**

[55] The Inclusion Clause in Article 1A(2) of the Refugee Convention provides that a refugee is a person who:

"... owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it."

[56] In terms of *Refugee Appeal No 70074/96* (17 September 1996), the principal issues are:

- (a) Objectively, on the facts as found, is there a real chance of the appellant being persecuted if returned to the country of nationality?
- (b) If the answer is yes, is there a Convention reason for that persecution?

## **ASSESSMENT OF THE APPELLANT'S CASE**

### **CREDIBILITY**

[57] Prior to determining the framed issues, it is necessary to make an assessment of the appellant's credibility.

[58] The appellant was an unimpressive witness. Important aspects of her account were inconsistent with the evidence she has previously given to the refugee status officer and during her arrival interview with an immigration officer, as well as with her Confirmation of Claim and statement. The Authority also found

aspects of her evidence to be implausible and, when asked to clarify apparent inconsistencies or implausibilities, the appellant's evidence became notably vague and jumbled.

[59] When these matters were put to her by the Authority, the appellant claimed to be so traumatised during her arrival interview and her interview with the refugee status officer that she was unable to give accurate evidence. Counsel has also submitted (in closing oral submissions and in his letter of 4 July 2008) that any flaws in the appellant's evidence should be considered in the context of her medical condition and the trauma she was under on arrival in New Zealand and, for that reason, her evidence should be accepted as credible.

[60] In assessing her evidence, the Authority has had regard to the submissions and the appellant's psychological state as recorded in the letter of Dr Tony Wansborough. However, we are not satisfied that this state explains or mitigates the problems with her evidence which are detailed below.

#### Evolving claim

[61] During her arrival interview conducted by an airport immigration officer, the appellant consistently maintained that the cause of her difficulties in Iran were related to Mrs S and a particular women's rights organisation. The relevant excerpts of the interview, as recorded in the file, are as follows (verbatim):

**“Q. Why did you leave your home country?”**

A. They made me involved or a set-up in a plot that would end up killing me. It was about the Association of Supporting Women, one of my friends were killed. I decided to flee the country to save my life.

**Q. What was the Farsi name of this woman's association?**

A. Anjoman-e-Hemayat-e-Zanan.

**Q. Are you a member of this association Anjoman-e-Hemayat-e-Zanan?**

A. No.

**Q. So why did you have the need to flee your country?**

A. Because I used to work with this lady & that is the reason. That ladies name is Mrs S ...

**Q. Have you ever been imprisoned or detained in a prison or detention centre?**

A. Yes.

**Q. If so, where, when and how long for?**

A. I don't know about the date, it was for a short time for 2 to 3 days, because of my work with this lady, Mrs S. This year.

**Q. Why were you imprisoned?**

A. Detention centre, it was not a court decision. ...

**Q. Have you ever been investigated or are you currently under investigation for any offence, criminal or otherwise in any country?**

A. Not other country but my own country, Iran. Because of my connection with this lady Mrs S, who was involved in the association of woman, I was detained. I did not associate with that lady, I worked with her in my own professional field.”

[62] Notably, the appellant made no mention whatsoever during her arrival interview of her clothes shop or any problem she had with authorities in relation to the selling of clothes.

[63] In her Confirmation of Claim, submitted five days after the arrival interview, the appellant asserted that she had problems both because of the clothes in her shop, as well as because of her association with Mrs S who was involved in the women’s rights association. Question C14 required the appellant to provide a brief explanation of every incident relevant to her problems with the authorities in Iran. In contrast to the account she had given during the airport interview, the appellant’s response contained the following details:

“Approximately over one month ago, I had problems because undercover officers for the disciplinary forces - confiscated the clothes from my shop and closed my shop and at the shop I was told to go to the Paadsara (sic). Then approximately a week later I went to Paadsara. I also worked for a woman at her shop in [Ferdorsi & Vanak, Tehran]. She was involved in the association of the support of women’s rights - and the authorities suspected I also was involved in this organisation.”

[64] Her statement, dated 14 December 2007 (and consisting of five and a half pages of typed text), provides a yet different version of her claim. The appellant has set out the basis for her claim in considerable detail and asserts that the only reason she is of interest to the authorities is because she manufactured and sold clothing which was considered to breach the *hijab* code and that she did not heed warnings to stop doing so. While she maintains her evidence that she worked for Mrs S, she provides no mention or detail about her predicament being either wholly or partly attributable to her relationship with Mrs S, FF or the women’s rights association.

[65] To the RSB, the appellant largely maintained the version of events advanced in her statement, namely that her predicament is a result of importing and selling clothes which did not meet the *hijab* standards in Iran. To the Authority, she also maintained that general claim and did not offer any evidence that her difficulties were at all related to Mrs S, FF or a link with a women’s rights

association.

[66] When the Authority asked her to explain the repeated assertions in her arrival interview and Confirmation of Claim that she experienced difficulties because of her association with Mrs S and the women's rights association, she responded by saying that the problems she had were similar to the problems that Mrs S had, impliedly asserting that that was why she would have referred to Mrs S in her arrival interview and Confirmation of Claim. She said that while she may not have been clear in her previous evidence, she was now telling the truth and her evidence to the Authority should be relied upon.

[67] The Authority does not accept this explanation for her mobile and evolving claims about the basis for her difficulties in Iran. Her clear and repeated assertions in her arrival interview about Mrs S and the women's association cannot be reconciled with her later evidence to have been targeted by authorities solely because she sold inappropriate clothes from her shop. The fact that she did not even mention owning her own shop or having any difficulties in relation thereto in her arrival interview, indicates that this evidence has been fabricated at a later date in an effort to present a sustainable refugee claim.

### Mrs S

[68] The evidence the appellant provided to the Authority about Mrs S and the difficulties that she (Mrs S) has had with Iranian authorities was vague and inconsistent.

[69] To the Authority, the appellant gave mobile evidence about problems Mrs S had with the authorities. First, she told the Authority that Mrs S did not have any problems with the authorities during the period in which the appellant worked for her. She did, however, state that Mrs S has had problems since that time, including the confiscation of mannequins and clothes. The appellant further stated that this had happened to Mrs S once before the appellant left Iran and once since her arrival in New Zealand.

[70] The appellant contradicted herself when giving evidence during the second day of the appeal interview, stating that Mrs S was arrested while the appellant was working for her. The appellant told the Authority that Mrs S was arrested while at a women's rights demonstration, but that after she gave an undertaking to the authorities, she was released.

[71] When asked by the Authority why she had given different evidence on the previous day of the hearing, the appellant told the Authority that she had forgotten about this. When reminded that she had said something different again to the RSB, namely that Mrs S had been arrested but not when the appellant was working for her, the appellant told the Authority she was being upset by the questions and she could not concentrate.

[72] The Authority does not accept the appellant's explanations for the inconsistencies in her evidence. Even if the appellant had failed to spontaneously remember Mrs S's arrest on the first day of hearing, she would have recalled the evidence when prompted by the Authority's questions, were they genuinely recalled events. She did not do so. Instead, she provided detail about other problems she claims Mrs S had experienced which was inconsistent with her initial evidence to the Authority and her evidence to the RSB. That she should then recall the arrest that occurred while she worked for Mrs S in some detail (for example, that Mrs S was required to make an undertaking and the demonstration was in a particular location), further indicates that this evidence, were it genuine, would have been remembered in response to questions asked on the first day of the hearing. Considered in light of the other flaws in her evidence, the Authority is in no doubt that this evidence too is untrue.

[73] This view is strengthened because other information the appellant provided about Mrs S has been vague to the extent that it cannot be believed. For example, notwithstanding the fact that her relationship with Mrs S was at the core of her claim on arrival, and that the appellant claimed to have worked with her for years, the appellant could not recall whether or not Mrs S was married.

#### Timing of events

[74] The appellant's evidence about the timing of events prior to her departure is mobile and cannot be reconciled with the dates of her travel to New Zealand. The appellant arrived in New Zealand on 7 November 2007, having departed from Iran approximately two days earlier, that is, in early November 2007. The timing of her final arrest and subsequent events which led to her departure was stated by the appellant to be as follows:

- (a) The appellant was arrested on or about 21 August 2007.
- (b) The appellant was held in custody for two days and then released on

security of her father's business licence on or about 23 August 2007.

- (c) One week after that detention, she went back and reported to the authorities, at which time she was told to report every two weeks until her punishment was handed down.
- (d) Having reported the first time, the appellant then decided to leave Iran and, within days of having reported, she went and lived with her cousin (about 10 days after the detention).
- (e) Within days of going to her cousin's house, the appellant's travel arrangements were made and she left Iran approximately one week after that.

[75] Even allowing for genuine discrepancies in the appellant's recall of the timing of events prior to her departure, her evidence cannot be reconciled with her arrival date in New Zealand. If her arrest and two-day detention occurred on or around 23 August 2007 and she departed Iran within, say, five weeks of that date and travelled directly to New Zealand, her arrival in New Zealand would have been in late September or early October at the latest, yet she arrived in New Zealand on 7 November 2007. When asked to explain this discrepancy in the dates and timing of events, the appellant was unable to give a sensible explanation.

[76] Nor was she able to explain inconsistencies about the timing of other events. She initially told the Authority that no officials came to her home or her father's business looking for her until after her departure from Iran. A short time later, she changed her evidence and said that the authorities did go to the house while she was still in Iran but she was staying with her cousin at the time – a version of events more consistent with that provided to the RSB. When asked to explain the inconsistency, the appellant said she was mixing up her times because she was unable to concentrate. The Authority does not accept that explanation. The appellant provided clear and unequivocal answers when questioned about the events with no hint that she was troubled by a vague recall of true events. The Authority finds that the flaw in her evidence is the result of an incorrectly recalled false story.

#### Arrest from metro station in 2007

[77] The appellant's evidence about the incident of arrest from the train station



for *hijab* violations was inconsistent. To the Authority she said that she was detained by one male and two female guards from the security forces, after they objected to her clothes. She stated that she was struggling against the guards because she did not want to get into the van and they pushed her into it before locking the door. She also said that she was kept waiting in the van for approximately five minutes before being driven to their headquarters. In contrast, she had told the RSB that she had been handcuffed by the officers and that after she was put into the van, she was required to wait for half an hour before being driven to the headquarters. When asked to explain these inconsistencies, she simply asserted that she was stressed at the time of the RSB interview.

[78] The Authority finds that the inconsistencies are the result not of the appellant's stress but because she was having difficulty recalling a fabricated account. This view is strengthened because this incident of arrest, which is a significant incident in the appellant's account, was omitted completely from her detailed written statement.

### **Conclusion on credibility**

[79] For all the reasons given above the Authority finds that the appellant has not provided a credible account of events in Iran. The appellant's evidence has been so undermined that the entire account is rejected. Accordingly, the Authority does not believe the appellant ever established her own clothes shop or that she had any significant problems in relation to *hijab* violations. Nor is there any credible evidence before the Authority to indicate that she has a profile with the Iranian authorities.

[80] In making these adverse credibility findings, the Authority has weighed the general assertions by the appellant and counsel that she has memory problems. In the context of all the evidence the Authority finds that these discrepancies are not attributable to a failure of memory but the presentation of a false account. As regards the credibility concerns identified above, no submissions were made that they specifically arose as a result of memory problems and nor are they the kinds of discrepancies which could be explained by a general memory deficiency when considered in the context of her evidence as a whole.

[81] The Authority also rejects her claim to have given inaccurate evidence in her arrival interview and in the RSB interview because of the stress she was experiencing. The appellant claims that she experienced memory failure when

recounting events on arrival at the airport, a time temporally close to the events in question. She claims that the reason she subsequently contradicted her earlier account is because her earlier account was incorrect. We do not accept that the reason why the appellant gave false information upon her arrival in New Zealand was because of stress. The evidence she gave upon arrival was detailed and she provided specific names and reasons which she asserted were related to her fear of returning to Iran.

[82] The relevant concerns with her evidence, where they arise, are not the result of difficulties in recalling genuine events but are due to a fabricated account which has evolved in an effort to secure refugee status and which has, at times, been recalled incorrectly.

[83] In making this finding, the Authority has also considered the evidence of SS that he has been told by the appellant's family in Iran that she has had problems in Iran which necessitated her travel here and which continue to cause difficulties for her father in Iran. The Authority is of the view that his evidence in this regard does not mitigate the flaws in her account.

#### Sur place claim of conversion to Christianity

[84] The Authority has found the appellant's account of events in Iran relating to her refugee claim to be false. In particular, we do not accept that she has any profile with the Iranian authorities or would be of any interest to them should she now return to Iran.

[85] Further to her claim to be of interest to Iranian authorities however, the appellant states that since she arrived in New Zealand in late 2007 she has been attending church with her sister and brother-in-law. She told the Authority that she converted to Christianity in February 2008 and was baptised in May 2008. Her evidence in relation to her church attendance and baptism was corroborated by her brother-in-law, AA, and by Mr Muir.

[86] AA told the Authority that he and his wife (the appellant's sister) had talked with the appellant about Christianity, provided her with a bible and taken her with them to church. He also told the Authority about her baptism in May 2008. Mr Muir recalled having seen the appellant at church in late 2007, having witnessed her proclamation of faith in early 2008 and her baptism in May 2008. He also told the Authority he could see by her demeanour that she appeared to have embraced

the Christian faith and that, after he had written his letter of support, he had asked her about her Christian beliefs and although they were not sophisticated, he believed that they were genuine.

[87] The Authority accepts that the appellant has been attending church with her sister and AA in New Zealand and that she was baptised in May 2008. The Authority also accepts that Mr Muir's opinion that she is a genuine Christian is sincerely held.

[88] However, the Authority must consider for itself whether it finds the appellant's claim to have converted to Christianity and to be at risk in Iran because of that conversion to be a credible one. The fact that we find that she has fabricated her account of events in Iran does not necessarily mean that her evidence as to her Christianity is untrue. Her assertion to have genuinely converted to Christianity and the evidence as to her church attendance and baptism must be weighed against the fact that she has been found willing to present a false account in relation to the other part of her claim.

[89] In this case, the Authority is prepared to extend the benefit of the doubt in relation to the fact that the appellant has, since the beginning of 2008, begun to genuinely explore the Christian faith. Her evidence as to her Christianity was understated and we accept that in the context of being in a westernized country and living in the home of her sister and AA, who are practising Christians, the appellant has also adopted their Christian practice and beliefs.

[90] Whether or not she will maintain her Christian practice when she is removed from the New Zealand context in which it has been introduced to her is a question which cannot be answered with certainty. However, for the purposes of this decision the Authority accepts that she will maintain her faith and seek to express it through the practice of prayer and, where possible, worship, at least initially on return to Iran. The appellant has provided no evidence that she will seek to proselytise or otherwise make public pronouncements of her Christianity in Iran.

**Whether the appellant has a well-founded fear of being persecuted in Iran**

[91] The Authority has recently considered the country information regarding the situation for Christians in Iran. In *Refugee Appeal No 76083-85* (27 June 2008) (in which Mr Mansouri-Rad also appeared as counsel), the Authority reviewed previous decisions of the Authority and also considered more recent information available as to the situation for Christians in Iran in 2007-2008 (see paragraphs [69]-[81]). Some of the information reviewed in that decision has also been submitted by Mr Muir on behalf of the appellant in this case.

[92] It is not intended to reproduce that review in full in this decision. The conclusion reached was that while the pressure on Christian converts known by the Iranian authorities does appear to have gone through a more intense period in 2007 and 2008, a Christian convert who is neither a church leader nor a proselytiser and does not possess any other characteristics that will heighten their risk of being identified by the authorities is not at risk of serious harm to the real chance level (paragraph [82]). The appellant has not provided and nor is the Authority aware of any further information which tells against that finding. It is adopted here.

[93] The appellant concedes (through counsel) that her recent church attendance and baptism do not, of themselves, support a finding of a well-founded fear of being persecuted for a Convention reason should she now return to Iran.

[94] The Authority agrees. The country information indicates that it is predominantly converts who are in leadership positions or who come to the attention of authorities for actively proselytising who may be at risk of serious harm to the threshold required in this jurisdiction. While the Authority has previously found that appellants with particular aggravating characteristics and facing specific circumstances (which do not exist in this claim) may also face a real chance of serious harm, no such finding is appropriate in this case.

[95] It is to be recalled that the Authority has found that the appellant has no existing profile with the authorities in Iran. There is no real chance that she will come to their attention in a negative light for any other reason on return to Iran.

[96] Turning to the issues as framed, the first issue for consideration is answered in the negative and the second issue does not therefore arise for consideration.

**CONCLUSION**

[97] For the reasons given above, the appellant is not a refugee within the meaning of article 1(A)2 of the Convention. Refugee status is declined. The appeal is dismissed.

"B A Dingle"  
B A Dingle  
Member