

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

**REFUGEE APPEAL NO 76287**

**AT AUCKLAND**

<b><u>Before:</u></b>	B L Burson (Member)
<b><u>Counsel for the Appellant:</u></b>	D Mansouri-Rad
<b><u>Appearing for the Department of Labour:</u></b>	No Appearance
<b><u>Date of Hearing:</u></b>	2 & 3 February 2009
<b><u>Date of Decision:</u></b>	4 March 2009

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**DECISION**

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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 the Islamic Republic of Iran.

**INTRODUCTION**

[2] This is the appellant's second appeal to this Authority. The appellant arrived in New Zealand on 29 August 2004 and lodged his claim for refugee status on arrival at the airport ("the first claim"). He was interviewed by the RSB in respect of the first claim on 20 and 21 September 2004. By decision dated 28 October 2004 the RSB declined the first claim. The appellant appealed to the Authority in respect of that decision ("the first appeal"). The first appeal was heard on 10 and 14 February 2005. By decision dated 22 June 2005 the Authority dismissed the first appeal.

[3] The appellant's second claim was lodged on 23 July 2008. He was interviewed in respect of that second claim on 1 September 2008. By decision dated 9 October 2008 the RSB declined the second claim. It found that his claim

was not credible and therefore it had no jurisdiction to consider this matter. The appellant duly appealed once more to this Authority ("the second appeal").

[4] Because this is the appellant's second appeal, the appellant must first establish that the Authority has jurisdiction to hear the appeal.

### **JURISDICTION OF THE AUTHORITY TO HEAR THE APPEAL**

[5] Section 129O(1) of the Immigration Act 1987 (which came into force from 1 October 1999) ("the Act") provides:

"A person whose claim or subsequent claim has been declined by a refugee status officer, or whose subsequent claim has been refused to be considered by an officer on the grounds that the circumstances in the claimant's home country have not changed to such an extent that the subsequent claim is based on significantly different grounds to a previous claim, may appeal to the Refugee Status Appeals Authority against the officer's decision."

[6] The question of whether there is jurisdiction to entertain a second or subsequent refugee application has been considered by the Authority in *Refugee Appeal No 75139* (18 November 2004). In that decision, the Authority ruled that in a subsequent claim under s129O(1) of the Act there are distinctive aspects to the appeal:

"[55] First, irrespective of the finding made by the refugee status officer at first instance, the claimant must satisfy the Authority that it has jurisdiction to hear the appeal. That is, the claimant must establish that, since the determination of the previous claim, circumstances in the claimant's home country have changed to such an extent that the further claim is based on significantly different grounds to the previous claim."

[7] The Authority further ruled at [55](e):

"(e) Jurisdiction under ss 129J(1) and 129O(1) is determined by comparing the previous claim to refugee status against the subsequent claim. This requires the refugee status officer and the Authority to compare the claims as asserted by the refugee claimant, not the facts subsequently found by that officer or the Authority."

[8] The Authority noted at [55](g):

"(g) The Authority does not possess what might be called a "miscarriage of justice" jurisdiction."

[9] In this appeal, therefore, it is proposed to consider the appellant's original claim and his further claim, as presented at the second appeal, with a view to determining:

- (a) whether, in terms of s129O(1) of the Act, the Authority has jurisdiction to hear the second appeal and, if so,
- (b) whether the appellant is a refugee within the meaning of Article 1A(2) of the Refugee Convention.

### **The first claim**

[10] The first claim was based on an allegation that the appellant had a well-founded fear of being persecuted by reason of his involvement with a pro-monarchist political group in Iran. He claimed to have undertaken a number of political activities on behalf of this organisation and feared that if he returned to Iran he would be arrested, tortured and possibly executed.

### **The second claim**

[11] The basis of the appellant's second claim and appeal is that some time after his first appeal was dismissed he converted to Christianity in New Zealand. He claims to have then discussed Christianity with one of his sisters who then herself converted to Christianity. The appellant claims his sister was subsequently arrested and killed in detention on account of her conversion. He claims that the Iranian authorities have become aware that he was the person who caused her to convert to Christianity. He thinks he will suffer a similar fate to his sister if returned.

### **Assessment of the jurisdictional question**

[12] The jurisdictional threshold is clearly met in this case. The second claim is based on events which are said to have occurred after the determination of his first claim. Moreover, whereas the first claim was based on the Convention ground of political opinion, the second claim is based on the Convention ground of religion. The jurisdictional threshold is crossed.

[13] While it may be that the jurisdictional threshold has been crossed, it is important to stress that the Authority's enquiry at this preliminary stage is simply one of comparing the assertions contained in the first claim with the assertions contained in the second claim. As will be seen, this does not mean that the Authority has accepted that the substance of the second claim is necessarily true.

[14] What follows is a summary of the evidence given in support of the second claim and an assessment follows thereafter.

## **THE APPELLANT'S CASE**

### **Evidence of the appellant**

[15] The appellant was born in Iran in 1970. He is divorced from his wife who has custody of their child. He was born into a family whose parents took their religious duties seriously. They prayed and observed all of the Islamic rules.

[16] The appellant had three siblings, two sisters and one brother. His siblings all had varying degrees of adherence to the Islamic faith. The appellant's brother, AA, came to New Zealand in the 1990s and was recognised as a refugee on the basis of his involvement with a pro-monarchist political group.

[17] The appellant told the Authority that while he was living in Iran he became disenchanted with Islam because of the actions of the Islamic state. He found that the actions of the state did not live up to the instructions given in the Koran. In particular, he noticed the Islamic state engaging in acts of religious persecution of Baha'is (a well known minority religious group in Iran subject to official state repression) and Christians. Although Christianity had existed in Iran for some time harsh punishments were imposed on those Muslims who converted to Christianity. He was aware that Christians had been put to death.

[18] Although disillusioned with Islam, the appellant did go to a mosque from time to time during his last years in Iran but found that what was being said in the mosques related to trivial and pointless matters. This reinforced his perception that Islam had nothing to say to him. He discussed his feelings with his sisters and parents. While sharing his views, his sisters nevertheless continued to comply with the rules surrounding fasting and prayer. His parents, who were also not well disposed towards the Islamic regime, told him that even if he did not believe in the government he should still believe in his God and continue to observe the Islamic rules surrounding prayer and fasting. Despite this advice, the appellant felt estranged from Islam and ceased praying and fasting as required.

[19] The appellant left Iran and arrived in New Zealand shortly thereafter in August 2004. Upon arrival he was detained at the Mangere Accommodation Centre (“the camp”). There he met a group of about six or seven other Iranians who were Christians. After a couple of weeks of being in the camp, he met three people from a particular church in Auckland (“the Auckland church”). These people came to the camp and offered to take the appellant and other asylum seekers detained there on outings to museums and other attractions around Auckland. Glad to be relieved of the boredom of life in the camp the appellant willingly went along on these excursions. Over time, the members of the Auckland church exposed the appellant to Christian ideas. As a result, he went to the Auckland church on approximately three or four occasions during his time at the camp.

[20] Although the appellant himself was only too glad to explore the teachings of the Christian faith because this was something that he was unable to do in Iran, he did not attend the Bible study sessions held by the Iranian Christians at the camp because he was preoccupied with his own life and difficulties.

[21] After his release on conditions from the Mangere Accommodation Centre in November 2004, the appellant went to live with one of his brother’s friends. He remained living with this person for some months. While living there he continued to receive messages from the members of the Auckland church about their activities. After some time, he decided to resume going to the Auckland church on a regular basis and began attending approximately once or twice a month. He kept in contact with an Iranian woman named BB, whom he had met while at the camp. From time to time he also went to functions organised by the Auckland church where he met BB and other members of the Iranian Christian group whom he had met at the camp.

[22] The appellant told the Authority that he was intrigued by the kindness and compassion shown to him by members of the Auckland church and this made him want to learn how their faith gave them such compassion. For this reason he began attending the church and immersing himself gradually within the Christian faith. The appellant told the Authority that his faith in Christianity received a significant boost or deepening when he attended a healing session conducted by a pastor who performed a series of miracles in which people who had ailments were cured of them. This made him believe that there was something deeply spiritual in the Christian faith and spurred him on to attending church on a more regular basis.

[23] Over time the appellant's interest in Christianity deepened to a point where he now did his best to attend the Auckland church each Sunday. He also continued to attend functions. Through his attendance at the services and discussions with the other Iranian Christians he found he was increasingly coming to believe the fundamentals of the Christian faith. Somewhere between two or three years ago, he arrived at a point where, despite there being still some things that he did not fully understand or agree with, he nevertheless considered himself to be a Christian. The appellant explained that one of the matters he could not understand was how Jesus, as a God, could have been baptised by a human such as John the Baptist. This underlying concern about the baptism of Christ meant the appellant himself has not yet been baptised as a Christian.

[24] After arriving in New Zealand, the appellant remained in regular contact with his family and telephoned them every two to three weeks. He told his parents about his job and general life in New Zealand. His eldest sister, DD, was still living at home with their parents because she was unmarried. The appellant also talked to DD in some detail about his life. Amongst general discussions about family and friends, the appellant told DD that he had made some Christian friends in New Zealand and had begun attending church. He told DD that Christians were nothing like the image portrayed of them by the authorities in Iran and they had been "nice and kind to him".

[25] The appellant told his sister that he had converted to Christianity but told her not to tell their parents. His parents were in their 60s and were strong in their faith and he thought that there was no doubt that they would consider that he had committed a sin by converting and this would offend them. He therefore hid his involvement with Christianity and conversion from his parents. He also did not tell them that his refugee claim had been dismissed as they thought he was still awaiting a decision on that.

[26] After some two or three years of having contact with his sister about his life in New Zealand, she began asking questions about Christianity. She asked if he could send her materials and forward them on to a friend's email address because she herself did not have access at their parents' house. The appellant went onto the Internet and copied an article about the life of Jesus and forwarded this to his sister. In a subsequent conversation with his sister, they spoke again about Christianity and she asked him to send more material. Again, the appellant copied some material about Christianity into an email and sent it to his sister.

[27] Some time in 2007, the appellant was told by DD during one of their telephone conversations that she had begun to attend a church. The appellant was happy for her and told her so. He also cautioned his sister to be careful because this could be dangerous in Iran. His sister replied that she had been told a similar thing by the pastor at the church. In a subsequent telephone conversation he learnt from DD that she had been baptised. She told him that she had been attending a private house church because it was too dangerous for her to be seen going to a church.

[28] In mid-June 2008, the appellant was telephoned by his distraught mother. She told him that DD was dead. She explained that some two months previously, DD had been arrested from the house and taken into detention. She said that approximately a week after she had been detained the authorities returned to the house and said that they knew that the appellant had been the one encouraging her to convert to Christianity. His parents were asked a number of questions relating to the appellant's brother and the appellant. The appellant denied that he had any involvement in his sister's conversion. He told his parents that he had only been telling her generally about life in New Zealand and about his own situation here. He did not want to upset them any further. However, his father still blames the appellant and to a certain extent his brother because in his mind it is their actions which have led to this.

[29] The appellant told AA about what had happened. AA was angry with him and it led to a degree of estrangement between them for some time.

[30] Upon hearing that the authorities now suspected he was the one who had encouraged his sister to convert to Christianity, the appellant lodged his second refugee claim.

[31] The appellant told the Authority that he no longer has any association with the Auckland church. He began having doubts about some of the teachings of the church. In particular, he noticed that one of the pastors always arrived at the church in a late model car while at the same time preaching the need for people to give up unnecessary or luxury goods. This caused him to have some doubts as to whether the message of the church was truly correct. However, he still believes that he is a Christian and the teachings of the Christian faith are generally true. It is a compassionate religion as opposed to the religion of Islam which is a cruel religion.

[32] The appellant told the Authority that from time to time he has discussed Christianity with his Iranian friends who are Muslim. He has not set out to specifically do so and only talked about it when the conversation has led to this. He had not sought to proselytise to the wider Muslim community. The appellant did raise the issue of Christianity with his brother when his brother was separating from his wife. The appellant suggested to his brother that he might find some solace and comfort in reading the Bible at such a stressful time. However, the appellant's brother did not adopt this suggestion.

[33] In December 2008, a copy of the death certificate was sent to the appellant's brother, with whom he was now residing.

[34] Finally, the appellant was issued with a new Iranian passport by the embassy in Wellington.

#### **Evidence of the appellant's brother**

[35] The Authority heard from AA, the appellant's brother. He confirmed that the appellant has been living with him since the beginning of 2006. AA told the Authority that he has overheard his brother talking to his sister DD about various matters including Christianity. His attitude towards this was that people were free to choose their own path in life and that these were two adults having a private conversation about religious matters. Although he himself was not interested in Christianity he did not object to the conversations that he heard his brother having.

[36] AA told the Authority that he believed that over time the appellant's faith had become deeper. He recalls that approximately two and a half years ago when he was going through a divorce from his wife, that the appellant told him that he might find comfort in Christianity and encouraged him to come to church and learn more about it. He did not, however, take up his offer.

[37] The appellant's brother told the Authority that he learned of their sister's death via the appellant. He came home from work one day and was informed about what had happened. He told the Authority that at this point he became very angry with the appellant and to some extent blamed him for her trouble.

[38] He told the Authority that he had been granted refugee status in 1995 after arriving here in 1991. He told the Authority that in 2003 he returned to Iran because he had not seen his family for such a long time. Prior to returning to Iran

he contacted a friend who at that time was working in some government agency and informed him that he was not on a prohibited travel list. He returned to Iran but says that he did not feel safe the whole time he was there. AA told the Authority he did not feel that the appellant would have any problems in Iran on account of any of the activities that AA had himself been involved with.

### **Documents and submissions**

[39] On 30 January 2009, the Authority received from Mr Mansouri-Rad a memorandum of submissions enclosing various country information relating to the treatment of Christians in Iran and the introduction of legislation into the Iranian parliament legislating for the mandatory death sentence in cases of apostasy.

[40] On 2 February 2009, the Authority received from Mr Mansouri-Rad:

- (a) A copy of the death certificate in respect of the appellant's sister;
- (b) A copy of the till receipt issued by a shop in relation to the photographs the appellant submitted to the Iranian Embassy in respect of his new Iranian passport;
- (c) A copy of the appellant's Iranian passport issued by the Iranian Embassy in Wellington.

[41] On 11 February 2009, the Authority received a further memorandum of submissions dated 10 February 2009 from Mr Mansouri-Rad regarding the lack of an exit permit on the appellant's New Zealand-issued Iranian passport. In this Mr Mansouri-Rad referred to the report by the Danish Immigration Service Fact-finding Mission *Iran* (20 September 2000) at paragraph 2.3 which notes that an exit visa is automatically stamped into all Iranian passports at the time they are issued by the Iranian law enforcement authorities. The Danish report quotes a statement made by an interviewee to the effect that the Iranian police force keeps records of persons who are ineligible for an exit visa. Mr Mansouri-Rad also referred to *Refugee Appeal No 74711* (22 August 2003) at paragraph [48] and *Refugee Appeal No 76160* (11 September 2008) at paragraphs [41]-[46] and [64]-[65].

## **THE ISSUES**

[42] 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."

[43] 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**

[44] The Authority acknowledges that, at times, the appellant spoke compellingly and convincingly. During the course of the hearing the appellant spoke with credible conviction about Islam, describing it as the reason why Islamic countries are technologically and developmentally "backward" while other societies are reaching out for exploration, technology and discovery. He described the Islamic world as living "2000 years ago". His words were spoken with demonstrable conviction and may well represent his true personal beliefs. However, for the reasons that now follow, the Authority has no doubt that his claim to have genuinely converted to Christianity is not true.

### *Delay in lodging the second claim*

[45] The appellant claimed to have converted to Christianity some two or three years ago, that is, some time between February 2006 and February 2007. Yet it was not until mid-2008 that he lodged his second claim for refugee status. He told the Authority that he had not considered filing his second refugee application after converting to Christianity because he had never intended returning to Iran. He

had come under pressure from the Immigration Service to obtain an Iranian passport following the dismissal of his first claim and it was his intention, once he received this document, to use it to try and travel to another country where Iranians could travel on a visa free basis. However, once he received news of his sister's death, he decided the risks were too great and lodged his second refugee claim.

[46] This explanation is weak. There are two aspects to this. First, the appellant could not adequately explain why in his own mind, the death of his sister exposed him to any greater risk. The appellant told the Authority that, at the time he arrived in New Zealand he was already aware that apostates were dealt with very harshly by the Iranian regime and that, indeed, some Christians had been put to death. If this was his true state of mind, it is difficult to understand how he could not have had a fear for his own safety if he had truly converted as he claimed. He told the Authority that he was aware that his friends BB and CC had both lodged refugee applications in New Zealand on the basis of their Christianity. Indeed he was aware CC had lodged a second time claim based on a *sur place* conversion to Christianity following the rejection of his first refugee claim on political grounds. Yet the appellant did nothing.

[47] At no time did the appellant take any steps to discuss his new circumstances with his lawyer. Nor did he raise any mention of his conversion to Christianity in the letter dated 29 February 2008 he wrote to the Associate Minister of Immigration seeking to remain on broad humanitarian grounds. Indeed, it was only after this application had been rejected by the Minister that the appellant lodged his second claim.

[48] If the appellant truly had converted to Christianity two or three years ago and truly was aware that Baha'is and Christians had been persecuted and even extrajudicially executed because of apostasy, it is implausible that the appellant would not have raised this with his legal representatives and lodged the second claim before he did, particularly in light of his knowledge that friends of his had lodged similar claims on this basis.

[49] Second, the appellant's assertion that he was planning to travel to another country to re-lodge his first refugee application also does not adequately explain the delay. The appellant knew the New Zealand system and had legal representation here. He knew that a second claim could be lodged as he found

out two years ago from his friend CC that his second claim had been lodged on the basis of his religion.

### *Evasiveness*

[50] A notable feature of this appeal was the appellant becoming extremely upset when the Authority attempted to question him about the delay in lodging the second claim. He became agitated when the Authority asked questions as to his knowledge of whether his friends BB and CC had made refugee claims based on Christianity and why he waited until news of his sister's claimed death to lodge his claim. Indeed, on two occasions throughout the hearing the appellant left the hearing room in a fit of pique at being asked these questions. While it is possible that this may be a genuine reaction of a person being questioned about a genuine claim the Authority is clear that this is not so in this case. This is because the appellant's unwillingness to answer hard questions points to an evasiveness which is apparent in other aspects of the file.

[51] In his letter dated 29 February 2008 to the (then) Associate Minister of Immigration seeking a humanitarian intervention in his case, the appellant stated (*verbatim*):

"...I left Iran because of fear for my life, and applied for residency in New Zealand as a asylum seeker. **Unfortunately, partly because of my vast fear of not being accepted and facing deportation, partly because of miscommunication between the political organizations, me, and the authorities inside and outside Iran, and partly because of language barrier and cultural interpretations, and mostly because of my memory of too many events in a short period of time, it appears as if I was not quite frank with my claims.**

But I assure you:

I am a young hard working, skilled man, willing to contribute to New Zealand

I promise I would not be a burden on New Zealand system in any way.

I have many job offers because of my skills. (I have enclosed some.)

**I am and will be honest and willing to provide it to you that I am correcting any misunderstanding I have caused unintentionally, so far.**

I have bought a house here. My brother is NZ citizen, living here and he will also sponsor me in any way you like.

I have sponsored a disadvantaged child whom I hope to continue to provide for.

I am intending to marry [EE] a New Zealand citizen whom I met more than a year ago and we have fell in love with each other.

..."

(Emphasis added by the Authority)

[52] The highlighted passages make clear that as far as his application to the Minister was concerned, the appellant “unintentionally” created misunderstandings which lead to his “true” claim being rejected. The appellant does not accept any personal blame for any of the problems with evidence as recorded in the Authority’s decision in respect of the first appeal.

[53] This first application being unsuccessful, the appellant lodged his second claim, where he took a different approach. The statement he filed in support of his second appeal states at paragraph [4]:

“In regard to my previous claim for refugee status I would like to admit that I made some false statements and that I tried to make everything bigger than it was in reality.”

[54] What this shows is that the appellant was unwilling to face up to the untruths and embellishments he told in his application to the Minister because this was not in his interest. However, some contrition on his part was clearly required before the Authority hence the change in tone and the frank admission of making “some false statements”.

[55] The appellant sought to explain the letter to the Minister on the basis that it was written by someone else and he simply signed it. Yet it would have been easy for the appellant to insist that the person writing this letter (if indeed that is what happened) to make the admission which appears in his second appeal statement. He chose not to do so. Therefore, even if his letter to the Minister was written by another, the fact he did not make the admission he now makes in the hope of securing a favourable response from the Minister indicates a degree of ambivalence towards being candid with the immigration authorities in New Zealand about his presentation of ‘the truth’.

*As to the circumstances of how he become interested in Christianity in New Zealand*

[56] The appellant told the Authority that when he first came to New Zealand he did not have much interest in learning about the Christian faith as he was preoccupied with his own life. However, once he had been at his brother’s friend’s house for some time he became interested because he felt under less pressure. However, this is hard to reconcile with the immigration history. The immigration file shows that the RSB dismissed the appellant’s first claim on 27 October 2004 and that he was not released from detention until 24 November 2004. In other

words, at the time he was residing with his brother's friend his refugee status claim had already been dismissed, something which he accepted had added to the pressure on him.

[57] He sought to explain this by stating that at the time he became interested in the church he was feeling less pressure despite the RSB rejecting his claim because he had been told there was another process he could avail himself of in relation to his claim – that is, an appeal to this Authority. Yet this also is inconsistent with the history of his first claim. The first claim was originally listed for hearing on 1 and 2 December 2004. However, on 30 November 2004 the Authority received a copy of a medical certificate from Dr FF dated 29 November 2004 which stated:

“This is to state that the above man came to see me for the first time today. He is stressed manifested by an anxiety state with vomiting. He is stressed as he is anxious regarding the outcome of his immigration application as a refugee. It is possible that a delay in this interview will allow him to recuperate enough to face the rigors of his interview. I have prescribed him some medication to help and I certify him five days grace before his interview as from today.”

[58] In her letter of 30 November 2004 to the Authority, Ms Curtis (his lawyer at the time) stated that she had spoken to a friend of the appellant the previous day and understood from that conversation that the appellant was:

“suffering from acute diarrhoea and comiting (*sic*) and that this has not abated yet. He is remaining in bed and recovering (*sic*). We understand he has bouts of diarrhoea and has difficulty seeing [Dr FF] again”.

[59] These documents paint a clear picture of a man under extreme pressure and stress in relation to the imminent hearing of his first appeal. This is hard to reconcile with his assertion before the Authority in respect of the second appeal that it was access to this very procedure which alleviated the pressure he felt from him and which prompted him to resume a greater degree of interest in activities deepening his understanding of Christianity.

### *Vagueness*

[60] The appellant was also very vague about the sequencing and timing of his conversion to Christianity. Thus, he could not remember with any clarity at all how long after he was released from detention that he began attending the church once or twice a month or at any time thereafter when he began attending on a weekly basis where possible. Reminded that, at his RSB interview he mentioned that he

began attending on a weekly basis approximately six months after his release from detention, the appellant could not recall if this was true.

[61] Having seen and heard the appellant, the Authority has no doubt that this vagueness is deliberate, designed to give a degree of flexibility as to the sequencing of events *vis-a-vis* the various immigration applications that have been made and rejected.

#### *The evidence of the brother*

[62] The Authority notes that the evidence of the brother was broadly corroborative of the appellant's second claim and that documents were produced via the brother in support of the second claim. However, the Authority notes that the brother's evidence was also provided in support of the first claim and that this too was rejected. Similarly, documents relating to his involvement in the Monarchist Party were also submitted which were found not to be true. In the circumstances the Authority places no weight on his evidence in respect of the appellant's conversion and the death of the sister. It is no more than a misguided attempt by him to assist his brother, the appellant, to achieve the immigration outcome he so plainly desires.

#### **Conclusion on credibility**

[63] In light of the cumulative weight of the foregoing, the Authority does not accept that the appellant has genuinely converted to Christianity. The Authority does accept that he has been living in New Zealand for a period of time with his brother who has been recognised as a refugee and that the passport that has been issued to him by the Iranian Embassy here in New Zealand does not contain an exit permit. His claim will be assessed against this background.

#### **A well-founded fear of being persecuted**

[64] This appeal is, regrettably, an example of a weak attempt to gain refugee status by presenting a false claim to have converted to Christianity. The appellant's current 'interest' in and attendance at church (neither of which are, the Authority is satisfied, known to the Iranian authorities in any event) will be jettisoned as soon as their utility wanes. His opportunistic attachment to

Christianity for the purposes of gaining residence in New Zealand will not expose him to any harm on return.

[65] Mr Mansouri-Rad submits that upon arrival in Iran it can be expected that the appellant would be questioned vigorously about his time in New Zealand. He submits that the fact that there is no exit stamp in the Iranian passport which has been issued in New Zealand is indicative of an interest in him. Mr Mansouri-Rad cites *Refugee Appeal No 74711* (22 August 2003) at paragraph [48] and *Refugee Appeal No 76160* (11 September 2008) at paragraphs [41]-[46] and [64]-[65] in support of this submission.

[66] As to a lack of an exit stamp denoting an interest in the appellant, the Authority accepts this may be so but it begs the question of what that interest might be. For a person whose passport has expired and is renewed while they remain overseas, the interest in them will no doubt extend to some investigation of their time abroad. The Iranian authorities may possibly be interested in interviewing such a person to ascertain whether he/she has carried out any anti-regime activities while abroad. Yet the appellant has not done so. If, like this appellant, such a person has not done so, the notion that the interest in them will give rise to a risk of serious harm amounting to their being persecuted is nothing more than unsubstantiated conjecture. The risk does not rise to the real chance level.

[67] Mr Mansouri-Rad also points to the fact that the appellant has, for some time, lived with his brother in New Zealand – a brother who has been granted refugee status on the basis of his past involvement in a pro-monarchist group. Yet, the appellant's brother was clear that he did not think that the appellant would be exposed to any risk by reason of his (the brother's) past involvement in this group. He told the Authority that no one in his family in Iran has experienced any problems because of his presence here. He also told the Authority that one of the precautions he took before travelling to Iran in 2003 was to have a friend check and ascertain that he was not on any list that might mean he would be prevented from leaving Iran. He was relieved to find that he was not on such a list. What this points to is that the interest the Iranian authorities had in the appellant's brother in the early 1990s as a result for his activities for the pro-monarchist movement has dissipated with time. Accordingly, the fact that the appellant has been living with him is not any basis for concluding that the appellant faces a real chance of being persecuted.

[68] Accordingly, the first principal issue is answered in the negative. The need to consider the second does not, therefore, arise.

### **CONCLUSION**

[69] For the reasons mentioned above, the Authority finds the appellant is not a refugee within the meaning of Article 1A(2) of the Refugee Convention. Refugee status is declined. The appeal is dismissed.

"B L Burson"

B L Burson  
Member