

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

**REFUGEE APPEAL NO 75907**

**AT AUCKLAND**

<b><u>Before:</u></b>	R P G Haines QC (Chairperson) B L Burson (Member)
<b><u>Counsel for the Appellant:</u></b>	The appellant represented himself
<b><u>Appearing for the INZ:</u></b>	No appearance
<b><u>Dates of Hearing:</u></b>	21 & 22 September 2006
<b><u>Date of Decision:</u></b>	28 June 2007

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**DECISION OF THE AUTHORITY DELIVERED BY B L BURSON**

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[1] This is an appeal against a decision of a refugee status officer of the Refugee Status Branch (RSB) of Immigration New Zealand (INZ) 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 claim for refugee status. He arrived in New Zealand on 6 December 2004 and claimed refugee status at the airport ("the first claim"). He was interviewed by a refugee status officer on 10 and 11 February 2005. A decision declining the first claim was issued on 4 April 2005. The appellant duly appealed to the Authority ("the first appeal"). The Authority panel (differently constituted) hearing the first appeal dismissed it on credibility grounds by decision dated 7 February 2006.

[3] On 15 February 2006, the appellant filed his second claim for refugee status ("the second claim"). He was interviewed by a refugee status officer on 9 and 23 March and 7 April 2006. By decision dated 21 June 2006, the RSB dismissed the second claim. The appellant duly appealed to this Authority.

[4] Because this is the appellant's second claim for refugee status, 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 (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 ss129J(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."

### **THE FACTUAL BASIS OF THE FIRST CLAIM**

[9] The basis of the first claim was that the appellant had become recruited into a small cell of anti-regime activists while working at a university. The cell printed leaflets in an apartment rented specifically for that purpose and distributed the pamphlets in the area in which this apartment was located. The appellant claimed that while he was visiting relatives in another city, the other members of the cell

were arrested. As a result, he went into hiding and fled Iran. He subsequently learnt that his family were summonsed for questioning by the authorities as to his whereabouts and two of his three fellow activists have been killed. As mentioned above, these claims were not believed.

### **THE FACTUAL BASIS OF THE SECOND CLAIM**

[10] The appellant alleges that following his arrival in New Zealand, he became interested in Christianity. This evolved over time to a point where he converted to Christianity and was subsequently baptised. He informed his wife of this development in his life. Upon hearing of his conversion, his wife became very angry and initiated divorce proceedings against him. The appellant claims that in the course of these proceedings, his wife informed officials not only of his conversion to Christianity, but also of his having made the first claim for refugee status.

### **ASSESSMENT OF THE JURISDICTIONAL QUESTION**

[11] The Authority is satisfied that it has jurisdiction to hear this appeal. Whereas the first claim was based on a claim of anti-regime political activities that took place in Iran, the second claim is based on *sur place* conversion to Christianity and the subsequent divulging of that information to the Iranian authorities.

[12] The Authority is satisfied that in light of these particulars, the circumstances of the appellant in Iran, as claimed by him, have changed to such an extent that the second claim is brought on significantly different grounds from the first. The Authority accepts that it has jurisdiction to hear and determine the second appeal.

[13] What follows is a summary of the appellant's evidence to the Authority in respect of the second appeal. An assessment of the evidence follows thereafter.

### **THE APPELLANT'S CASE**

[14] The appellant was born in mid-1977. He has one sibling. The appellant's parents, while both Muslims, are not devout. Neither parent undertook daily prayers nor went to Friday prayers at a mosque. Indeed, the family only ever went to a mosque in order to attend a funeral. They did not fast during *Ramadan* and no family member had felt compelled by their religious beliefs to undertake the

*Haji.*

[15] In 2003, the appellant was working at an university as a lecturer. At this time, he became acquainted with a young woman (hereinafter “the/his wife”) who had come to the family house to meet his mother and who thereafter returned on a number of occasions. As a result of these visits, a relationship between her and the appellant developed. Over the course of the next few months, they spent much time talking on the telephone with each other during which the conversations occasionally turned to matters of religion. The appellant made it known to his wife that while he believed in God and respected all religions, he did not follow any laws of any particular religion. The appellant explained to the wife that he saw religious teaching as restricting contact between the individual and their creator. He told her his belief that religion had been used by the Islamic regime to promote injustice and discrimination on a large scale. He told the Authority that the attitude he displayed towards religion was not an issue between them at this time.

[16] During this courtship period, informal discussions began between the respective families as to their future marriage. The wife’s family therefore undertook inquiries as to the appellant’s and his family’s situation. Unlike his family, the wife’s family were devout Muslims who prayed and fasted according to the tenets of the Shi’a Muslim faith. However, the fact that neither the appellant nor his parents were of a similar religious orientation did not count against his marriage prospects. The wife’s parents were mainly concerned that he would be a good husband to their daughter and, in particular, whether he was of good social standing in the community and could provide their daughter with financial security. They therefore approved of the relationship and their possible marriage.

[17] Approximately seven to nine months after their first meeting, and armed with the informal indication of approval from the wife’s parents, the appellant requested that his parents seek formal permission from the wife’s parents that they be married. The wife’s family agreed and, in late 2003, the couple were married.

[18] After the marriage, the appellant and his wife lived in a unit adjacent to the unit occupied by his parents without particular incident. The appellant continued working as a lecturer at a university.

[19] In mid-late 2004, the appellant left Iran and arrived in New Zealand in December 2004. After arrival in New Zealand, the appellant was initially placed in a refugee detention camp (“the camp”). There, he made contact with GG, a pastor

who was coming to the camp to introduce Christianity to asylum seekers. In the two to three months that the appellant was at the camp, he met with GG on less than 10 occasions. In these meetings, GG explained basic Christian themes or messages to the appellant and other asylum seekers.

[20] The appellant also met with a number of representatives of the CCC Church who came to the camp on a weekly basis. Of these, the appellant had particular contact with JJ who held meetings for asylum seekers in the camp. JJ asked the appellant and the other assembled asylum seekers what they knew about Christian teaching. The appellant began having discussions with him about matters relating to the Christianity. He told JJ what he knew about Christianity from his theology classes in school and he recalls asking him a question about who Christ was in the Christian faith.

[21] In early 2005, after two or three months in the camp, the appellant went to live with his sister and brother-in-law in Tauranga. He stayed with them until the end of 2005. The appellant found he had been deeply affected by the care and kindness shown to him by the CCC representatives. This had sparked in him an interest to know more about Christianity. On two occasions, the appellant attended a church located close to where his sister and brother-in-law were living because he wanted to know what a Christian church looked like and to experience first hand the environment of a Christian service.

[22] While in Tauranga, the appellant also began studying the Christian faith. He was given books to read by his brother-in-law, a Muslim who had converted to Christianity while still in Iran. His brother-in-law made books on Christianity available to the appellant which the brother-in-law had obtained from his own cousins in America. The family to which the appellant's brother-in-law's cousins belonged were well-known in Iran for being a Christian family.

[23] While in Tauranga, the studying of Christian teachings became a regular part of the appellant's daily life. He spent up to 10 hours per week studying Christian books. He also had regular conversations with his brother-in-law about Christianity. On occasions, some of the brother-in-law's Christian friends came to the brother-in-law's house and informal religious services were held. The appellant listened to what was said although he did not take part in the discussions during the services.

[24] At the end of 2005, the appellant returned to Auckland and began living at a

refugee hostel. He resumed contact with the CCC Church within a week of his return. He began attending a Bible study class that the CCC Church held at the hostel on a weekly basis and has continued to do so. Additionally, the appellant also attends regular services held by the CCC Church on Sundays at their church. Apart from this, the appellant has gone to celebrations organised by the CCC Church at its various offices.

[25] In early December 2005, the appellant was informed by his parents that his grandmother had passed away. The following night the appellant had a dream in which he saw his grandmother in the company of “an illuminated person”. In his dream, the appellant was crying and the illuminated person told the appellant that he should not be worried. The appellant was told by the “illuminated person” to “put your trust in me”. The appellant felt this dream was a message for him and he decided that he should become a Christian.

[26] The next day, the appellant telephoned his parents in Iran. He told them about the dream and its content. He indicated that he felt he had to respond to the message that was relayed to him in the dream the previous night. He told them he now felt in his heart that he was a Christian. His parents became very emotional but were happy for him.

[27] The appellant then telephoned his wife who, by this time, had moved out of the unit the couple had occupied and had resumed living with her parents. He told his wife the same things that he had told his parents. However, unlike his parents, his wife became very angry and started screaming at him down the telephone. She said that his “whole being was becoming an infidel”. She said that he had to give up his thoughts otherwise she would divorce him. The appellant was taken aback by his wife’s reaction. Throughout their contact in 2005, the appellant had told her that he was studying Christian books and she had not displayed any hostile or negative reactions. The appellant tried to explain further details to his wife about his decision but she would not allow him to and hung up the telephone.

[28] Distressed by his wife’s reaction, the appellant tried repeatedly to contact her on a number of occasions over the following few weeks. Initially, the wife received his calls, but the moment he tried to explain his reasons for converting to Christianity, she simply hung up the telephone. As the weeks passed, her family refused to even take his calls, simply hanging up upon ascertaining it was him at the other end of the line. By the end of January 2006, the appellant had given up trying to contact his wife.

[29] The appellant was baptised with other persons by a CCC Church representative on 18 January 2006. He wanted to be baptised as this was a way of demonstrating his belief in the Christian faith and symbolised the start of a new life. He informed his parents of his baptism and they were happy for him. He was unable to tell his wife because of the lack of telephone contact.

[30] In late January 2006, the appellant became suspicious that divorce proceedings may have been started by the wife's family. Rumours of trouble in the marriage were circulating among their respective family's mutual acquaintances. On one occasion, the appellant's parents had a conversation with the wife's parents in which his parents had been insulted by the wife's parents. It became clear that they were looking for any excuse to ask for a divorce to end the marriage.

[31] Also towards the end of January 2006, the appellant received a voice mail message on his New Zealand mobile telephone from an official in the Iranian embassy in New Zealand. The caller requested that the appellant contact him. The appellant telephoned Mr Mansouri-Rad, the lawyer then acting for him, and informed him of the telephone call. He asked Mr Mansouri-Rad whether a negative decision had been reached and if INZ had given this information to the Iranian embassy. Mr Mansouri-Rad replied that no decision had been reached and that it was impossible that INZ would make such disclosure given the confidentiality that attaches to refugee status proceedings in New Zealand. He also advised the appellant that if there was any further contact from the embassy that they be asked the purpose of their call and to put their request in writing.

[32] At around this time, and no later than the beginning of February 2006, the appellant received a telephone call from the neighbours of his sister and brother-in-law. They told him that they had received a letter for his sister who, by this time, had moved to Australia. They wanted to know what to do with the letter they had received in error. The appellant contacted his sister and informed her of this. The sister indicated she would speak to the neighbours. Within a day or two, the appellant's sister telephoned the appellant and told him that the letter was, in fact, for him. The appellant then contacted the neighbours and asked them to send him the letter. They informed him that unfortunately the letter had now been misplaced and they could not forward it to him.

[33] It was also around this time that the appellant was informed by a friend, SS, that SS had also received a letter addressed to the appellant from the Iranian

embassy at his house in Auckland. The appellant collected the letter from SS the next day. The letter was a note from the person in the Iranian embassy in Wellington who had left the voice mail message asking the appellant to contact the embassy.

[34] Within the next few days, the appellant received a telephone call from his parents. They told him that they had received a notice from the Ministry of Justice issued at the request of his wife. The summons demanded that the appellant return to Iran within a week to perform his legal duties as a husband. This was, the appellant and his parents agreed, a clear indication that the wife was seeking a divorce and that the reason for the complaint was because he had converted to Christianity. They were, however, unclear about what the next step should be and took no further action in relation to the summons.

[35] The appellant then contacted Mr Mansouri-Rad for a second time and informed him that he had received a written note from the Iranian embassy. He also told Mr Mansouri-Rad that he had converted to Christianity and that his wife had become angry when he had told her of this. He told Mr Mansouri-Rad that he had been baptised and that a summons had been issued in Iran. The appellant stated Mr Mansouri-Rad asked for the date of his baptism and informed the appellant he believed the events may well be related but that he should wait for further contact from the Iranian Embassy.

[36] Shortly thereafter, in mid-February 2006, the appellant received a telephone call from Mr Mansouri-Rad to inform him that the first refugee appeal had been dismissed. The following day, Mr Mansouri-Rad faxed to the appellant a copy of the decision in respect of the first appeal. The appellant then telephoned Mr Mansouri-Rad and sought advice as to the next step. He was advised by him there was the possibility of lodging a second refugee claim on the basis of the appellant's conversion to Christianity. However, he was advised that legal aid was unlikely to be granted and he could not afford Mr Mansouri-Rad's private fee.

[37] The appellant then contacted the Iranian embassy and spoke to the man who had left the voice mail message and who had sent the note. This official said that the appellant's wife had made a complaint against him and wanted a divorce because of his conversion to Christianity. The official informed him that the Iranian authorities knew he had sought asylum here in New Zealand and said that it was better for the appellant to report himself to the authorities. In accordance with previous counsel's instructions, the appellant asked for these matters to be put in



writing and the consular official replied he would only tell him these things and from now on the appellant was responsible for any further steps.

[38] The appellant was then informed about another lawyer, Ms Carol Curtis, by representatives from the CCC Church. He went and saw Ms Curtis and, with her help, lodged the second claim for refugee status.

[39] At the time he lodged his second claim, the appellant did not know what was happening in Iran. However, around March 2006, he learned from his parents that rumours were circulating in Iran that the couple had now been divorced. Ms Curtis asked him to try and get documents from Iran regarding the divorce and the appellant did so. He contacted his parents and advised them of the request. They, in turn, instructed a lawyer in Iran to investigate the matter and obtained documents from the court.

[40] In mid-2006, the appellant received the deed of divorce from his parents. By this time, however, the RSB had already declined his second claim.

[41] By letter dated 7 September 2006, Ms Curtis advised the Authority that she was unable to represent the appellant at the hearing because he had been denied legal aid and was not in a position to instruct her privately

[42] The appellant fears returning to Iran because he has converted to Christianity and that the Iranian regime knows of his conversion. He believes his wife and her family have used his conversion as a pretext to get a divorce. She has since remarried and he believes that her desire to do so was the real reason that she wanted a divorce.

[43] The appellant has relied on a number of documents in support of the second appeal. They include:

- (a) a letter from the appellant's mother, dated 27 March 2006;
- (b) an undated letter from JJ;
- (c) a copy of a letter of summons issued by Ministry of Justice of the Islamic Republic of Iran, dated 21 January 2006, with translation;
- (d) an envelope addressed to the appellant care of SS's address and a note in Farsi;

- (e) a facsimile from Mr Mansouri-Rad, dated 22 March 2006;
- (f) a letter from SS;
- (g) a letter from Emanuel Persian Church in the United States (undated);
- (h) a Deed of Divorce registered 15 March 2006;
- (i) a copy of the appellant's mother's birth certificate; and
- (j) a copy of the appellant's grandmother's death certificate, dated 9 December 2005.

[44] During the hearing, the appellant also produced to the Authority originals of five envelopes as follows:

1. Envelope 1 – postmarked May 2006 in which his mother's birth certificate and his grandmother's death certificate were sent to him with other items not relevant to the appeal;
2. Envelope 2 – postmarked 28 June 2006 in which the original of the divorce deed was sent;
3. Envelope 3 – postmarked 27 March 2006 comprising the letter from the appellant's mother;
4. Envelope 4 – postmarked 18 February 2006 in which the summons was sent to him; and
5. Envelope 5 – being the original envelope containing the note from the Iranian embassy in New Zealand.

[45] At the conclusion of the hearing, the appellant tendered a copy of the United States Department of State *Country Report on Human Rights Practices 2005: Iran* and Internet articles relating to the situation of Christians in Iran.

[46] All of the evidence received from the appellant has been considered by the Authority in reaching its decision.

## **THE ISSUES**

[47] 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."

[48] 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**

[49] The Authority finds that the appellant's claim to have genuinely converted to the Christian faith not to be credible. He may well have attended the Bible study, Christian services and meetings to which he referred in his evidence. However, the Authority does not accept that any such activity was undertaken because he had a genuine interest in becoming a Christian or because he has genuinely converted to Christianity. Rather, the Authority finds that these activities have been undertaken by the appellant for show, that is, to give the impression of a genuine interest and conversion. His claims in this regard are, the Authority finds, an untrue construct to aid a second claim to refugee status by a young man who wishes to gain a New Zealand residence permit and all the benefits that brings and who possesses no well-founded fear of being persecuted in Iran.

[50] In coming to this finding, the Authority has been struck by the failure by the appellant to mention any interest in Christianity during the various interviews he had both before the RSB and the previously constituted panel of the Authority during the currency of his first claim refugee status. The process of determining the first claim spanned some 14 months, stretching from the time he lodged his first claim on 6 December 2004, until 7 February 2006, when the panel hearing the first appeal issued its decision. His claimed serious study of the Christian faith

commenced no later than his move to Tauranga in early 2005 and, by December of that year, he had decided to become a Christian. However, the first mention by the appellant of this important new information about his circumstances occurred in February 2006 and fortuitously only after he in particular had finished giving evidence to the panel hearing the first refugee appeal. Thus:

- (i) On 22 December 2004, the appellant was notified that he was to be interviewed by the RSB. On 11 January 2005, and now represented by Ryken and Associates, a firm of solicitors of considerable experience in refugee matters, he submitted a written statement of the same date outlining his claim. He made no mention of any interest in Christianity in that document.
- (ii) His RSB interview took place on 10 and 11 February 2005. During a lengthy interview over two days, the appellant was asked about his religious beliefs. In response, the appellant indicated he was not a practising Muslim and “saw all religions the same”. He made no mention of any interest in Christianity deriving from his contact with the various church organisations that he now mentions.
- (iii) On 28 February 2005, a typewritten summary of the interview was sent to him by the RSB. On 21 March 2005, via Ryken and Associates, the appellant responded. Again, no mention was made of any interest in Christianity.

[51] It must be remembered that the appellant claimed before this panel of the Authority that by March 2005, he had become motivated by his prior interaction with the CCC Church to learn more about the Christian faith. Similarly, as at the date he filed his reply to the RSB interview summary, the appellant claims to have been living with the Christian brother-in-law for some weeks and to have been actively taking steps to deepen his understanding of the Christian faith through conversations with his brother-in-law and study of the Christian books sent from America. If true, it is surprising that he did not mention this when asked about his religion in the interview or raise it as an issue in his response to the RSB interview summary.

[52] There was a similar omission by the appellant to mention anything about his claimed burgeoning interest in Christianity when he appeared before the panel of the Authority hearing the first appeal. That appeal was originally listed for June

2006 but was adjourned to August 2006. Now represented by Mr Mansouri-Rad, the appellant was interviewed by that panel over three days on 8 and 9 August and 10 October 2006. He made no mention of it in his oral evidence before the first Authority panel. Yet, according to the appellant's evidence before the currently constituted panel of the Authority, by the time of the last interview he had with the previous Authority panel in early October 2005, he had been residing in Tauranga for some seven or eight months and spending up to 10 hours per week deepening his understanding of the Christian faith.

[53] The appellant seeks to explain his failure to mention his interest in Christianity to either the RSB or to the Authority panel hearing the first appeal on the basis this was "a private matter". As far as he was aware, his claim was on political grounds and he could not introduce this "private matter" as a new ground. He told the Authority that as he was not legally qualified, he did not know that he should have told the Authority that, by the time of its hearing in October 2005, he had been studying Christian matters for some months. The Authority rejects this explanation for the reasons which follow.

[54] First, the appellant presented before this panel of the Authority as an intelligent, capable and rational individual. He represented himself at the hearing and his engagement with the Authority during the course of it clearly demonstrated that he is a person well used to, and abundantly capable of, processing and analysing information in an ordered and logical fashion. He pointedly sought clarification of the legal issues surrounding jurisdiction when this was unclear to him. At one point, he even invited the Authority to consider a point he was making by placing it "in brackets" so as to clearly demark it from the substance of what he had hitherto been talking about, thereby avoiding possible confusion. The claim to naivety he now offers for his failure to mention his interest in Christianity during the currency of his first refugee claim is at complete odds with the persona and demeanour that was visibly on display in his evidence before and interaction with the Authority.

[55] Second, throughout the currency of his first claim at both first instance and on appeal, the appellant was represented by two different experienced counsel, both of whom regularly appear before the Authority and each of whom has experience in arguing claims of religious conversion. The second of the two, Mr Mansouri-Rad, is fluent in Farsi. Our assessment of the appellant is that he is the sort of person who would ask many questions of his legal representatives in the

course of an application for refugee status. The notion that he would not mention to either lawyer a genuine interest in Christianity as a matter of potential concern is simply implausible.

[56] Third, this failure is even more implausible given that the appellant knew, at the time of his RSB interview and first appeal hearing, that his brother-in-law had sought asylum in New Zealand because of his own conversion to Christianity. Moreover, he knew his brother-in-law's cousins in America had to flee Iran for a similar reason. The appellant sought to explain that he did not think their situation was relevant to his because they had converted in Iran and that it was not open to him to raise a post-flight conversion. The Authority rejects this explanation. This is precisely the sort of question that the appellant, as an intelligent, rational individual, would have raised with his previous counsel during the currency of his first refugee claim, if his various Christianity-related activities reflected a genuine conversion to Christianity. The fact of the matter is both the brother-in-law's continued presence in New Zealand and the cousins' continued presence in America was due to a belief that their Christianity made it dangerous for them to be in Iran. If anything, his exposure to their predicaments would have impelled him, as a matter of self-preservation, to raise his own interest in Christianity if, in fact, it were a real interest. His failure to do so against this background further points to his manipulation of the refugee status determination procedures so as to artificially prolong his stay in New Zealand.

[57] Fourth, his explanation that his failure to mention the fact of his conversion in December 2005 to Mr Mansouri-Rad because Mr Mansouri-Rad was "very busy at the time" is, in itself, trite. It is also at variance with the character he displayed before the Authority. Furthermore, the appellant's claim that he in fact told Mr Mansouri-Rad of his conversion and baptism, albeit belatedly in February 2006, is not supported by the facsimile from Mr Mansouri-Rad which makes no reference to being given this information. The only thing Mr Mansouri-Rad refers to and confirms is that the appellant had, prior to this, mentioned to him that he had received a voice mail message from the embassy official here in New Zealand and that he had advised the appellant to request that any further communication be in writing.

[58] Finally, in relation to the appellant's evidence surrounding his telephone call to the Iranian embassy in which he claims to have been told that the Iranian regime knew of his first asylum claim and conversion, the Authority notes he made

no mention of this telephone call in the statement he filed soon after he lodged the second refugee claim. He initially explained that this omission was a translation error and that it had been mentioned in his original *Farsi* statement. When the original *Farsi* statement, a copy of which was on the Authority's file, was given to him, he then agreed that he had not mentioned it in this statement. He then changed his evidence and stated that he had mentioned it in "a verbal conversation" with Ms Curtis who was assisting him at that time. The omission of this critical piece of information from his statement and subsequent mobility in explanation adds to the air of invention that surrounds the appellant's claim to have genuinely converted to Christianity.

[59] Moreover, by this time, he claims not only to have converted to Christianity and been baptised, but also to have had a belief that his ex-wife and family were using the fact of his conversion to secure a divorce. He further claims to have already been told by Mr Mansouri-Rad that he could make a second claim for refugee status on this basis. The only reason he did not do so immediately was for financial reasons and not because he did not believe his life was in danger. The idea that he would, against this background, unilaterally call the embassy is both inherently implausible and at odds with his logical and rational persona.

### **SUMMARY ON CREDIBILITY**

[60] The Authority is in no doubt that the above matters clearly evidence a carefully constructed narrative of conversion and baptism by the appellant so as to create the pretext for lodging a second claim for refugee status in order to prolong the duration of his stay in New Zealand. The Authority finds that while he may have physically undertaken the actions that he did, including attending various Christian institutions, none of these actions signal a change from his being a non-practising Muslim to a person who now has a genuine belief in Christianity.

[61] Regarding the claim that the appellant had been present during Bible study sessions held at the brother-in-law's house, the Authority notes the findings of the first Authority panel; see *Refugee Appeal No 75568* (7 February 2006) where, at paragraphs [50]-[51], it was stated:

"[50] The Authority found the evidence of the appellant's brother-in-law, O, to be entirely lacking in credibility. Although he was granted refugee status in 2000 on the basis of his Christian activities in Iran, his evidence to us concerning his on-going Christian activities in New Zealand was utterly unconvincing. He claimed that he did not attend church because he had been unable to find one that suited him and that instead, he gathered with similarly minded Christians in his own home

to pray, particularly when world events of concern occurred. When asked, he said that people from a variety of nationalities attended this home group.

[51] His wife O initially failed to corroborate this claim and initially gave evidence that the home prayer group was made up of other Iranians. After an adjournment, she changed her evidence and claimed that she had only assumed the attendees to be Iranian and that people of other nationalities may indeed attend. The Authority was left with the distinct impression that she had discussed this aspect of her evidence with O during the adjournment, despite the Authority's express instruction to her not to do so."

[62] Neither the brother-in-law nor the sister gave oral evidence before us, nor were statements made by them filed. The previous panel made adverse credibility findings against them and, pursuant to s129P(9) of the Act, the Authority relies on and adopts the previous panel's findings in relation to these persons.

[63] For the reasons outlined above, the Authority also does not accept the appellant's account of having told his wife of a conversion to Christianity and the account of her claimed reaction and subsequent disclosure to the Iranian authorities. Nor does it accept that the Iranian authorities are aware of his claim to have converted.

[64] Finally, the Authority observes that while it has received documents from Iran that may well evidence a true breakdown of a true marriage, these documents do not suggest that apostasy was the reason for the decline in the fortunes of the marriage. Plainly, the fact of any divorce does not, of itself, create any risk of being persecuted.

[65] For these reasons the Authority does not accept the appellant to have been a Christian convert. He may have gone through the motions of baptism, but that is all.

## **A WELL-FOUNDED FEAR OF BEING PERSECUTED**

[66] As a result of these credibility findings, the Authority finds that the appellant does not possess a well-founded fear of being persecuted. There is no credible evidence that the Iranian authorities are aware of the appellant's ruse. On his return to Iran, the appellant's motivation for maintaining the ruse will have disappeared and he will continue to be what he in fact is, and always has been, a non-practising Shi'a Muslim. There is no country information of which the Authority is aware to establish that persons who, like the appellant, use the pretence of a false conversion to Christianity face a well-founded fear of being persecuted. Available country information does not establish that the mere fact of



a genuine conversion to Christianity gives rise to a well-founded fear of being persecuted – see *Refugee Appeal No 75376* (11 September 2006) at [113]-[157]. Even if the Iranian authorities were to learn of his ruse at some future date after his return to Iran, the chance of his being persecuted as a result is even more remote.

[67] The first principal issue is found in the negative. The need to answer the second does not, therefore, arise.

### **CONCLUSION**

[68] For the above reasons, 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.

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B L Burson  
Member