OUTER HOUSE, COURT OF SESSION

[2026] CSOH 98

P1206/25

OPINION OF LORD MALCOLM

in the Petition of

AB

Petitioner

against

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Petitioner: Shabbir; Drummond Miller LLP (for McGlashan MacKay, Glasgow)
Respondent: Crabb; Office of the Advocate General for Scotland

9 October 2026

Introduction

[1] The petitioner is an Iraqi of Kurdish ethnicity who entered the UK in 2020. He claimed asylum based on him being at risk of family violence if returned to Iraq. He also relied on his political activity in the UK. The claim was rejected. An appeal to the First-tier Tribunal (Immigration and Asylum Chamber) was refused by decision dated 13 July 2023. Several adverse findings were made as to the petitioner's truthfulness. On 26 January 2024 the Upper Tribunal affirmed that determination.

[2] In September 2024 further submissions were presented on behalf of the petitioner referencing, amongst other things, attendance at the Glasgow Kelvin Christadelphian

Church; a conversion to Christianity; and a consequential risk of persecution if returned to Iraq. On 18 August 2025 an officer acting on behalf of the Secretary of State for the Home Department (the respondent) rejected those submissions and decided that the petitioner did not qualify for humanitarian protection. It was also determined that, when taken together with the material previously considered, they were not a fresh claim because they did not create a realistic prospect of success before an immigration judge, see paragraph 353 of the Immigration Rules. In this application for judicial review the court is asked to quash the decision that the petitioner had not made a fresh claim.

The respondent's decision

[3] So far as material for present purposes the decision complained of can be summarised as follows. It was accepted that members of religious minority groups are subject to various forms of discrimination and mistreatment in Iraq. However, it does not amount to persecution. Furthermore, the petitioner could relocate to a Kurdish controlled area where the mistreatment is less severe. If returned to Iraq, it was not considered that the petitioner would be at risk of persecution because of any religious conversion, nor face societal pressure from family and the local community.

[4] The decision noted that in respect of the claimed conversion reliance had been placed on the decision in *TF and MA* v *Secretary of State for the Home Department* [2018] CSIH 58; 2019 SC 81. That judgment illustrated the importance in cases of this kind of credible third party sources, expert reports, and taking a holistic view of the evidence. It was noted that the circumstances of and the evidence provided in *TF and MA* were "vastly different" from that presented in support of the petitioner's claimed conversion.

[5] In line with the negative credibility findings made by the immigration judge, it was not accepted that the conversion was genuine. The two letters in support from the church secretary were brief and vague. They indicated 9 months involvement with Christianity. No expert report had been provided. There was no evidence of the claimed involvement in a Christian group in Newcastle 3 years earlier pre-dating the petitioner's original appeal, and only now mentioned. If returned to Iraq, the petitioner would not have to change or conceal any beliefs. For these reasons, protection and permission to remain in the UK were refused, and the view was expressed that if an immigration judge assessed the new material along with that previously considered, the outcome would be the same.

The submissions for the petitioner

[6] The submissions in support of the petition can be summarised as follows. A number of errors demonstrate that the respondent (a) failed to apply the heightened and rigorous scrutiny required when deciding whether there was a fresh claim and (b) came to an irrational decision. The prior negative credibility findings, despite concerning other matters, predetermined the assessment of the claimed conversion. There was no holistic evaluation of the new evidence. It was not approached with an open mind. The two letters from the church secretary were not contaminated by the earlier concerns as to the petitioner's credibility. They spoke to his attendance at church and his involvement in the faith. An immigration judge might well give this weight. The failure to raise the conversion earlier was treated as sufficient to discredit the account. The circumstances here are similar to those in *TF and MA.* The decision challenged in this petition fell into the traps identified in that judgment. An immigration judge might well come to the view that the petitioner is sincere and has genuinely converted to Christianity.

[7] It was wrong to treat the absence of an expert report as a reason for refusal. It was an irrelevant matter. On the approach adopted in *TF and MA*, active participation in a Christian church should have been regarded as a "very powerful consideration" in favour of a genuine conversion. Instead, it was given little weight. The unlawful conversion assessment infected the Article 8 ECHR assessment regarding integration in Iran. There was no consideration of the stigma and discrimination suffered by Christian converts in Iran. The petitioner might be forced to conceal his beliefs. In addition to *TF and MA*, reference was made to *Dangol* v *SSHD* [2011] CSIH 20; 2011 SC 560 at paragraphs 6 - 9; *AK(Sri Lanka)* v *SSHD* [2009] EWCA Civ 447; [2010] 1 WLR 855 at paragraph 34; and *R(Alnoor)* v *SSHD* [2025] EWHC 922 (Admin); [2025] 4 WLR 57 at paragraphs 27 - 28.

TF and MA

[8] The key submission for the petitioner was that the case is similar to that of *TF and MA*. It is therefore appropriate to dwell upon parts of that judgment. Paragraphs 9 - 16 summarise the extensive body of evidence in support of TF's conversion. This included letters from several people in positions of responsibility at the Tron Church in Glasgow speaking to their belief that he had converted from Islam to Christianity, including Mr Taylor a retired solicitor and a former missionary. His lengthy and detailed support set out in three letters included expression of his conviction that TF has an "active faith in the Lord Jesus Christ". Based on interactions with TF over 18 months, Mr Gunn, deputy leader of the church's Farsi Ministry, described TF's "own personal faith in Jesus" and his clear desire to share it with others. Mr Gamble, designated as a ministry apprentice, spoke to his belief that TF had a genuine Christian faith. This evidence was not accepted by the First-tier Tribunal largely because TF had previously been untruthful on other matters and the

witnesses could not look into his heart to check whether the claimed conversion was genuine. An appeal was refused by the Upper Tribunal.

[9] The evidence provided in support of MA's conversion was similar in volume, detail and effect, see paragraphs 24 - 29. Mr Taylor said that MA had come to a faith that was real and showed in his life. There was evidence from a school teacher who had been conducting bible studies at the church for over 20 years. He explained how MA demonstrated his "genuine faith in Christ". He had been baptised at an evening service. Again, this and other independent evidence was not accepted by the First-tier Tribunal. Reference was made to MA's claim of a homosexual encounter being a fabrication. This cast very serious doubt on the credibility of his claims as a whole. An appeal was refused by the Upper Tribunal.

[10] When delivering the opinion of the court, Lord Glennie observed that juries are told that if someone has lied in respect of one point, it does not necessarily follow that they are untruthful regarding a different matter. An appellant's evidence has to be considered in the round along with the other evidence which might well be unimpeachable, for example from expert reports. That other evidence, if impartial, objective, and not based on information from the appellant, should not be devalued simply because of his dishonesty on other matters. The supporting witnesses were judging the genuineness of the conversions by reference to TF's and MA's actions. Their evidence had to be assessed on its merits without any adverse assumption based on doubts as to the appellant's credibility. A holistic approach must be taken to all the evidence before deciding on which to accept and which to reject, and on the proper disposal of the matter at issue.

[11] Lord Glennie noted that the evidence from the church witnesses covered (1) the appellants' words and activities at the church, (2) evidence as to the practises of the Tron Church, and (3) opinion evidence given by persons in positions of responsibility within the

Church who had expressed the belief that TF and MA were both genuine in their conversion to Christianity. The evidence within the second and third categories was admissible expert evidence within the meaning of *Kennedy* v *Cordia (Services) LLP* [2016] UKSC 6; 2016 SC (UKSC) 59. It was not based on what the appellants had told the witnesses. It should have been considered on its merits. Instead, it was dismissed because of a preconception based on an assumption that the claimed conversion was a fabrication thus their evidence was suspect and should be disregarded.

Analysis

[12] The difficulty for the petitioner in relying upon the decision in *TF and MA* is that in respect of both quantity and quality the independent evidence tendered for him bears no relation to that lodged in that case. Indeed, it is at the opposite end of the spectrum. When assessing the petitioner's own statement as to the conversion, the respondent was entitled to place weight on the previous negative credibility findings. It was therefore appropriate to scrutinise the petitioner's supporting evidence with care.

[13] The first letter from the church secretary, dated 6 August 2024, states that the petitioner had been attending Sunday services for 2 months. The author believed that he had attended a bible class in England but had no details of that. The second letter was written some 7 months later. It stated that the petitioner had been attending church and had developed a good understanding of the Christian faith. He was participating in weekly pre-baptism classes. It was explained that Christadelphians focus on the bible. They do not share many of the beliefs of other denominations such as the Trinity, Easter, Christmas and the immortal soul, however the petitioner had a knowledge of those beliefs. The author stated: "We therefore support the application for Asylum".

[14] The letters provided no confirmation of the petitioner's genuine conversion to the Christian faith. There is no reference to personal observations of or conversations with him. They are consistent with someone attending church and learning about Christianity for the purpose of a false conversion claim. The respondent's description of the letters as being brief and vague is accurate. Unlike in *TF and MA*, it cannot be said that powerful independent evidence was set aside because of concerns as to the petitioner's credibility.

[15] As to a genuine conversion to the Christian faith, in reality there was only the petitioner's own evidence to assess. It cannot properly be said that the terms of the respondent's decision betrayed a closed mind to independent evidence in support of the claimed conversion because, in truth, there was no such material. It was also entirely accurate to observe that no expert evidence of the kind described by Lord Glennie was provided. That was not an irrelevant consideration. I do not accept the submission that the respondent fell into the traps identified by Lord Glennie.

[16] Having regard to the whole circumstances, including the poor quality of the material lodged in support of the new submissions, the decision refusing to recognise a fresh claim within the meaning of rule 353 was not irrational. It was not tainted by any error of law and did not betray a failure to exercise anxious scrutiny.

Disposal

[17] The petitioner's counsel acknowledged that if the submissions based on an erroneous approach to the evidence as to the conversion were rejected, there could be no challenge to the decision concerning reintegration into Iraq and the Article 8 assessment. The petitioner's pleas-in-law are repelled, the respondent's third plea-in-law is sustained and the order

sought in the petition, namely reduction of the respondent's decision dated 18 August 2025, is refused.