

12 years from the date on which the Bishop of Winchester withdrew his permission to officiate on 14 December 2018. [DW]

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KS (Thailand) v Secretary of State for the Home Department

Upper Tribunal (Immigration and Asylum Chamber): Upper Tribunal

Judge Gleeson, 6 December 2022

[2022] UKAITUR PA090582018

Thai national – application for leave to remain in UK – whether applicant Muslim or Buddhist

KS, a Thai national raised as a Buddhist, came as a teenager to the UK, where she met her partner, a Pakistani national and a Muslim. KS and her partner had an Islamic ceremony (*nikah*) in the UK in 2015, but that had not been a valid legal marriage in UK law. At that ceremony, KS had recited the words of conversion to Islam – the *shahada* – before an imam, but she had continued to practise Buddhism. Subsequently, the couple had two children and, after some time in the UK without leave, KS claimed asylum on the basis that she and her partner would face violations of their human rights if they returned either to Thailand or to Pakistan. In Thailand, in addition to societal disapproval of Buddhist/Muslim intermarriage, because the marriage was not recognised in the UK it would not in turn be recognised for a spousal visa. As the Home Office conceded, a false conversion to Islam would make it impossible for KS to live in Pakistan because it would suggest that either her marriage was Islamically invalid or that KS was an apostate, which could put her life in jeopardy. The Tribunal concluded that KS had continued to be a Buddhist and had not made any effort to live as a Muslim. That, in turn, meant that there was no suitable country in which to resettle her, and her claim therefore succeeded.

Comment: The case elicited the unusual argument from the Home Office that a woman who publicly said that she was not a Muslim and for whom there was no evidence of engagement with Islam was nonetheless still Muslim. It is difficult to see how, short of serious evidence of deception, someone publicly insisting that they falsely took the *shahada* can be safely removed to a country where blasphemy carries extreme penalties. Even if the Home Office were to insist that the conversion at the wedding was binding, the fact that KS continued to practise Buddhism would at the least make her an apostate. Had the Home Office succeeded, it would have had the bizarre effect of declaring KS a Muslim against her will. [Elijah Z Granet]

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