



HIGH COURT OF AUSTRALIA

Public Information Officer

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APPLICANT NABD OF 2002 v MINISTER FOR IMMIGRATION AND MULTICULTURAL AFFAIRS AND REFUGEE REVIEW TRIBUNAL

The finding of the Refugee Review Tribunal that an Iranian Christian convert would not have a well-founded fear of persecution should he be returned to Iran was not affected by jurisdictional error, the High Court of Australia held today.

NABD, 36, claimed that in Indonesia before arriving in Australia he had embraced the Christian faith and that he feared he would be executed by the authorities because he had converted from Islam to Christianity. NABD was refused a protection visa in 2001, a decision affirmed by the RRT. Following his successful application to the Federal Court of Australia for judicial review, a differently constituted tribunal also affirmed the decision to refuse him a visa. The RRT did not accept that NABD, a frequent traveller on business, had to flee to Turkey with a people smuggler rather than leaving legally on his own passport, or that authorities raided a house of a friend who was encouraging him to convert. It did accept, however, that NABD had been baptised in Indonesia, joined the Uniting Church, undertaken a Bible study course, attended religious gatherings in Indonesia and in immigration detention, distributed pamphlets, spoken to others about his faith, and encouraged others to attend church services.

The RRT concluded from Australian and American official country information on Iran that Christians do not suffer persecution unless they engage in aggressive outreach or conspicuous proselytising. It held that in Iran NABD would be able to practise as a Christian in the same ways he had done so in Australia without facing a real chance of persecution. It did not accept that his activities since leaving Iran constituted proselytisation rather than quiet sharing of his faith so he would be unlikely to behave more openly or aggressively back in Iran.

NABD applied to the Federal Court for writs to quash the RRT's decision, to compel it to review its decision, and to prevent the Minister giving effect to the decision. The Federal Court dismissed the application and the Full Court of the Federal Court dismissed an appeal. NABD appealed to the High Court, arguing that the RRT paid insufficient regard to his individual circumstances and had fallen into jurisdictional error by attaching significance to different forms of behaviour.

The High Court, by a 3-2 majority, dismissed the appeal. It held that the RRT had correctly addressed the fundamental question of whether NABD had a well-founded fear of persecution on the ground of religion. The Court held that the RRT had properly considered NABD's individual circumstances in the light of the available information.

- *This statement is not intended to be a substitute for the reasons of the High Court or to be used in any later consideration of the Court's reasons.*