

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
ADMINISTRATIVE COURT

Manchester Civil Justice Centre
1 Bridge Street West
Manchester M60 9DJ

Date: 30th October 2020

Before:

HIS HONOUR JUDGE EYRE QC

Between :

THE QUEEN
(on the application of TAHA ALI MOHAMMED
RIASH)
- and -
SECRETARY OF STATE FOR THE HOME
DEPARTMENT

Claimant

Defendant

Miss. Lorraine Mensah (instructed by **Catherine Higgins Law**) for the **Claimant**
Mr. David Mitchell (instructed by **Government Legal Department**) for the **Defendant**

Hearing dates: 5th and 6th October 2020

JUDGMENT

COVID-19: This judgment was handed down remotely by circulation to the parties' representatives by email. It will also be released for publication on BAILII and other websites. The date and time of hand-down was 10.00am on 30th October 2020.

HH Judge Eyre QC:

1. On 14th November 2019 the Defendant refused the Claimant's application for a British passport. By a claim form filed on 13th February 2020 the Claimant sought judicial review of that refusal and the matter came before me for hearing pursuant to the grant of permission by HH Judge Bird on 5th May 2020.
2. The Claimant contends that he is Taha Ali Mohammed Riash ("Taha Riash") and a legitimate son of Ali Mohammed and that as such he is a British Citizen by descent. The Defendant says that the Claimant is in fact Taha Nasser Saleh Al-Suraimi ("Taha Al-Suraimi") a person who is not a British citizen and who was removed from the United Kingdom as an illegal overstayer in 2005. Alternatively the Defendant denies that the Claimant has proved that he is Taha Riash or that Taha Riash is a legitimate son of Ali Mohammed.

The Factual Background.

3. Save for the crucial questions of the Claimant's identity and parentage there was little dispute about much of the background material with the differences between the parties being in large measure as to the inferences which could safely be drawn from particular documents and dealings. Moreover, as I note at [17] below, Mr. Mitchell's sensible concession in his closing submissions on behalf of the Defendant that a legitimate child of Ali Mohammed would be a British citizen narrowed the areas of dispute. It follows that I can summarise the history shortly.
4. Ali Mohammed was born in 1911 in what is now Yemen. He married Fatemah Nasr Al-Qashtari in 1956. Ali Mohammed was a merchant seaman and in due course he became a British citizen. The material before me included copies of Ali Mohammed's Seaman's Record Book and the Claimant had also provided Ali Mohammed's NUS Contribution Book and other documents relating to his life as a seaman. Ali Mohammed had British passports issued in July 1956, January 1973, and January 1983. No passport has been produced for the period from July 1966 to January 1973.
5. Qaid Ali Mohammed Riash is a son of Ali Mohammed. He was born in 1957 and came to the United Kingdom in 1999 when he obtained a British passport by virtue of being Ali Mohammed's son having produced the documents relating to Ali Mohammed on which the Claimant now relies.
6. Qasem Ali Mohammed Riash is a further son of Ali Mohammed. He was born on 9th June 1971. He also came to the United Kingdom in 1999 and obtained a British passport in the same way as Qaid Riash.
7. The Claimant says that he also was born 9th June 1971. He says that he is Qasem Riash's twin brother and that they were conceived after Ali Mohammed had returned to Yemen in July 1970 in advance of the wedding of Ali Mohammed's daughter, Dowla, in January 1971. He says that his mother died in 1975 and that he was cared for and brought up by Lola Qaid who was his mother's cousin. The Claimant says that his father remarried and that Qasem was brought up by his father and the latter's new wife but that he, the Claimant, remained with Lola Qaid.

8. In December 1999 Taha Al-Suraimi entered the United Kingdom on a visitor's visa. He made an application for asylum in June 2000. That application was refused in April 2001. Taha Al-Suraimi's appeal against that refusal was dismissed by Immigration Adjudicator Narayan in September 2001 and in June 2002 the Immigration Appeal Tribunal rejected an appeal from that decision. Taha Al-Suraimi was removed as an illegal overstayer on 23rd February 2005. In his dealings with the Home Office and its agencies Taha Al-Suraimi had said that he was married to Hana Ali who was a Yemeni citizen born in 1977.
9. The Claimant entered the United Kingdom in 2007 on a visitor's visa. He was issued with a British passport on 30th June 2009 having advanced the same documents and account in respect of Ali Mohammed as had Qaid Riash and Qasem Riash.
10. In October 2014 the Home Office received intelligence that Taha Al-Suraimi had returned to the United Kingdom and was using the name Taha Riash. That intelligence is recorded by the Defendant as having been from an untested source whose reliability could not be judged. The report was investigated by Peter Eberle, a counter-fraud officer. He and a colleague compared the photographs which the Defendant had of Taha Al-Suraimi with the passport application photograph of the Claimant. They concluded that they showed the same person with the photograph of the Claimant being of Taha Al-Suraimi at an older age than shown in the earlier photographs. As a result of that conclusion the passport granted to the Claimant was revoked in May 2016 and subsequent applications for a British passport were refused in May 2017 and in March 2018. On 25th June 2019 the Claimant made a further application for a passport. That was refused on 14th November 2019 and it is that refusal which is the subject of the current proceedings.
11. The Claimant has produced a number of documents from Yemen. The Defendant has not conceded their authenticity but has not put forward any positive challenge to them (save for the points noted below). The documents bear sundry confirmations of authenticity and a number of them have been accepted as reliable by Home Office and UKVI officials at various times. In those circumstances I proceed on the footing that they were issued by the competent authorities in Yemen on the dates appearing on them. Those of particular note are:
 - i) The court confirmation of the marriage of Ali Mohammed to Fatemah Nasr Al-Qashtari on 1st July 1956. That confirmation was issued on 8th March 2008 and so after the death of both spouses but after the hearing of evidence.
 - ii) Yemeni passports issued to the Claimant on 14th May 2005 and 6th January 2014 in the name Taha Riash together with confirmation from the Yemeni embassy in the United Kingdom that Taha Riash is a citizen of Yemen.
 - iii) Yemeni identity cards issued to the Claimant on 14th July 2002 and 2nd May 2005 in the name of Taha Riash.

- iv) A Birth Record card recording that Taha Riash's birth as the son of Ali Mohammed and Fatemah Nasr Al-Qashtari on 9th June 1971 was registered on 29th April 2007.
- v) The court confirmation of the marriage of Taha Riash to Hana Ali Abdullah Al-Yaremi on 21st May 2004. That confirmation was issued on 13th September 2020 after the hearing of evidence.

The Applicable Principles.

- 12. There was no dispute as to the relevant matters of law and they can be stated shortly.
- 13. The effect of section 5 (1) of the British Nationality Act 1948; section 2 of the Immigration Act 1971; and sections 11 and 50 (9) of the British Nationality Act 1981 is that the legitimate child of a man who was a citizen of the United Kingdom and Colonies and who had that citizenship by registration in the United Kingdom is a British citizen. The burden is on the Claimant to prove on the balance of probabilities that he is a British citizen meeting those requirements (see section 3 (8) of the Immigration Act 1971).
- 14. The question of whether a person is or is not a British citizen and so entitled to a British passport is a matter of fact. So a determination in that regard is a determination by the Secretary of State of a matter of fact rather than the exercise of a discretion. It follows that where there is a judicial review challenge to such a determination there is no scope for a margin of appreciation being granted to the Secretary of State. Instead the court is to determine for itself on the evidence presented to it whether a claimant is or is not a British citizen (see *R (Harrison) v Secretary of State for the Home Department* [2003] EWCA Civ 432, [2003] INLR 284 per Keene LJ at [34] and *R (Sinha) v Secretary of State for the Home Department* [2013] EWHC 711 (Admin) per Eder J at [14]).
- 15. Just as the Claimant bears the burden of showing that he is a British citizen so he also bears the burden of establishing that any documents which he advances in support of that contention are reliable (see *MA (Bangladesh) v Secretary of State for the Home Department* [2016] EWCA Civ 175 per Lloyd Jones LJ at [21] – [23] approving the principles enunciated in *Tanveer Ahmed v Secretary of State for the Home Department* [2002] UK IAT 00439, [2002] INLR 345).

The Areas of Dispute.

- 16. In the light of those principles there were four matters which the Claimant had to establish in order to prove his claim to British citizenship namely:
 - i) That he was Taha Riash.
 - ii) That Taha Riash was born on 9th June 1971.
 - iii) That Taha Riash was the legitimate son of Ali Mohammed (which in turn involved establishing that he was the son of Ali Mohammed and Fatemah Nasr Al-Qashtari and that they were married at the time of his birth).

- iv) That at the time of Taha Riash's birth Ali Mohammed was a citizen of the United Kingdom and Colonies registered in the United Kingdom.
17. The Defendant's initial position was that none of those matters were conceded and that the Claimant was put to proof on each of the elements. In reality, however, there was no dispute as to Ali Mohammed's British citizenship nor as to the fact that as at 1971 he was married to Fatemah Nasr Al-Qashtari. In his closing submissions Mr. Mitchell helpfully and properly accepted that a legitimate child of Ali Mohammed would be a British citizen. It follows that the actual areas of dispute were as to whether the Claimant had shown that he was Taha Riash and whether he had shown that Taha Riash was a legitimate son of Ali Mohammed with the latter issue resolving into the question of whether the Claimant had shown that Ali Mohammed was in Yemen at the time when Taha Riash was conceived.
18. In the claim form the Claimant made a claim for damages but that claim was properly abandoned by Miss. Mensah.

The Approach to be taken in assessing the Evidence.

19. As already noted the Claimant bore the burden of establishing his British citizenship and the reliability of the documents which he advanced in support of his contentions. In large part the arguments from counsel were as to the inferences which could and could not legitimately be drawn from particular documents or known facts and as to the consequences which followed from those for the reliability of the Claimant's evidence and for his case more generally. However, Mr. Mitchell also submitted that I should conclude that the Claimant had been deliberately evasive when being cross-examined and that I should take that conclusion into account when assessing the reliability of the Claimant's case.
20. I remind myself that considerable care is needed before a judge can attach weight to the impression derived from the demeanour of a witness during his or her oral evidence. The need for caution is increased where, as here, the evidence was given through an interpreter. It is right to note that the Claimant did not give his oral evidence in a compelling manner and this is certainly not a case where the impression made by the Claimant in the giving of his evidence could be seen as a factor in his favour. It does not follow from the absence of such an impression that I should conclude that the Claimant was being evasive in his answers to Mr. Mitchell's questions. Not only was the Claimant giving evidence through an interpreter but he was also being asked to comment on documents and on inferences being drawn from past dealings. The questioning was entirely legitimate but there was nonetheless an element of artificiality in the exercise and if the Claimant's account is correct his inability to give an explanation of some matters (such as those relating to Taha Al-Suraimi) is not surprising. I do not find that the Claimant was being deliberately evasive in the giving of his evidence and I draw no adverse inference from his demeanour or from the manner in which he answered questions. I will in due course have to reflect on the rather different question of the adequacy of the Claimant's explanations or purported explanations of the matters put to him and to consider the Defendant's

contention that a fuller explanation would have been expected if the Claimant's case were correct.

21. The trial bundle contained a statement signed by Qaid Ali Mohammed Riash dated 27th January 2020 and supporting the Claimant's case. The court had been told that this witness was in Yemen and arrangements had been made for him to give evidence by telephone on the morning of the second day of the hearing. As it turned out the Claimant decided not to call Qaid Riash. Miss Mensah did not abandon the statement and invited me to regard it as part of the evidence supporting her client although she accepted that it could carry little weight. Mr. Mitchell submitted that I should attach no weight to the statement and said that I could have no confidence that it was in fact from Qaid Riash. The statement gives evidence on matters which were highly contentious as between the Claimant and the Defendant and the maker of the statement was not subject to cross-examination. In those circumstances although it was admissible in evidence I could not regard the statement as bearing any weight and it did not assist me in determining the points in issue.
22. The statements of Dipankar Choudhury (the Claimant's former solicitor) and of Mr. Eberle were in a somewhat different category. To the extent that they set out matters of history and/or exhibited documents they were not contentious and assisted in setting out the background of this matter. Mr. Eberle explained the exercise he had undertaken in comparing photographs of Taha Al-Suraimi and of the Claimant and the reason why he and a colleague had concluded that those were photographs of the same person. Mr. Mitchell accepted that Mr. Eberle was not qualified to give expert evidence in that regard and this material was put forward simply as an explanation of how it was that the Claimant's British passport came to be revoked in May 2016.

The Whereabouts of Ali Mohammed at the time of the Conception of Taha Riash.

23. Has the Claimant shown that Ali Mohammed was in Yemen at the time when Taha Riash was conceived?
24. There is no dispute as to the authenticity or reliability of Ali Mohammed's Seaman's Record Book. It shows that on 25th March 1969 Ali Mohammed was engaged as a member of the crew of MV Teakwood which set sail from Liverpool and from which he was discharged at Maizuru in Japan on 9th July 1970. The next entry records that on 26th April 1971 Ali Mohammed was engaged as a member of the crew of SS Castledore sailing from Liverpool to Tyne and Wear. He was discharged from that boat on 3rd January 1972 and reengaged on the same boat on 19th February 1972.
25. The Claimant says that Ali Mohammed returned to Yemen in July 1970 or thereabouts after being discharged in Japan from MV Teakwood and that he travelled from Yemen to the United Kingdom in about April 1971. The Claimant says that Ali Mohammed had returned to Yemen to attend the wedding ceremony of Dowla, Ali Mohammed's daughter, which is said to have taken place in January 1971 and that Taha Riash was conceived during that visit to Yemen being born in June 1971.

26. The Defendant says that the Claimant has not proved that Ali Mohammed was in Yemen between July 1970 and April 1971. Mr. Mitchell pointed out that there was no evidence of travel from Japan to Yemen and that although other passports of Ali Mohammed had been provided the Claimant had not produced any passport for that time. Similarly there was no material to support the assertion that Dowla was married in January 1971. There was no documentary record of the marriage nor any photographic record. As to the latter aspect the Claimant pointed out that the marriage had taken place in a rural Yemeni village in the early 1970's. He said that he did not believe that cameras were common there at that time and also said that in his youth the local belief had been that photography was un-Islamic. It was the Claimant's case that he was not to be criticised for being unable to produce documents about his sister's wedding which took place very nearly fifty years ago in circumstances where his sister had died in the 1970's. Miss. Mensah contended that the production of a number of Ali Mohammed's passports from that time was a factor operating in the Claimant's favour and that he was not to be criticised for having failed to provide a full and continuous run of passports.
27. I regard Ali Mohammed's Seaman's Record Book as of considerable significance in relation to this issue. It shows a period between July 1970 and April 1971 when Ali Mohammed was not engaged as the member of a ship's crew. The absence of documents showing how Ali Mohammed travelled from Japan in July 1970 and where he went is not surprising at this interval of time and is not to be held against the Claimant. Similarly the explanation which the Claimant gives for the absence of more material substantiating his contention as to his sister's wedding is reasonable and understandable. It is apparent that there was a gap of just over eleven months between Ali Mohammed's sailing engagements as recorded in his Seaman's Record Book. The contention that Ali Mohammed returned to his wife and family in Yemen for at least part of that time is the most likely explanation of that interval and the Claimant's arguments as to the conclusions which should be drawn from that are persuasive.
28. In those circumstances I find that the Claimant has shown that Ali Mohammed was in Yemen at the time of the conception of Taha Riash and that the latter was the legitimate child of the former.

The Identity of the Claimant.

29. In the light of my conclusion that Taha Riash was the legitimate son of Ali Mohammed the crucial question becomes that of whether the Claimant has shown that he is Taha Riash.
30. For the Defendant Mr. Mitchell placed considerable emphasis on the statement which the Claimant made when he was interviewed on 20th March 2018. That interview was in the context of the passport application which the Claimant had made in May 2017 and which was refused one week after the interview. The Claimant signed a section 9 statement headed with the standard caption as to its truthfulness and the maker's liability to prosecution if the contents of the statement were untrue. The statement was the product of an interview conducted by Jennie Richardson on behalf of the Defendant and was written out by Miss. Richardson. The interview was conducted through an interpreter, Nabal Al-

Surami, and the statement was signed by the Claimant after Miss. Richardson had read it aloud accompanied by interpretation from Mr. Al-Surami. Mr. Mitchell relied on the following passage:

“My mother is called is called Fatima Nassar Al Krushti [there is then a mark which might have been intended as a comma or a full stop] ~~she has no~~ [then Miss. Richardson’s initials appear above the deletion] Al ~~Salarmi~~ [then the word “Suraimi” appears above that deletion]. She has not been known by any other name.”

31. Those comments were made in the context of the Claimant being asked about the reference on Ali Mohammed’s seaman’s record to his wife being “May Fatima”. Mr. Mitchell said that these words were of great significance. They were, in his submission, a flash of light which showed the Claimant saying that his mother’s surname was Al Suraimi. That was an instance of the Claimant dropping his guard and making a mistake in which he got his story wrong. The argument was that although the mother of Taha Riash was not Fatima Al-Suraimi the mother of Taha Al-Suraimi could be assumed to have had that name and that the Claimant had either inadvertently disclosed the truth or had revealed that he did not know the correct name of Taha Riash’s mother. When he was cross-examined about this the Claimant said that he could not remember saying that his mother’s name was Fatima Al-Suraimi and that he believed her name was Fatima Al-Qashtri. He also pointed out that Al-Suraimi was the name of their home village.
32. It would, indeed, be a significant point for the Defendant if the Claimant had said in March 2018 that his mother was Fatima Al-Suraimi. However, it is to be noted that in his dealings with the Home Office Taha Al-Suraimi had said that his father was Nasser Saleh Al-Suraimi but had said that his mother was Horiyah Abdullah (in his visa application) and Huria Naser Abdullah Al-Ghiasi (when seeking asylum). In any event, I am not persuaded that it is a correct reading of this passage from the 2018 statement to regard it as involving the Claimant saying that his mother was Fatima Al-Suraimi. The words “Al Suraimi” follow a deletion which had been initialled by Miss. Richardson and “Suraimi” was written over the deleted word “Salarmi”. There is moreover a mark which could be a comma or a full stop after the word “Krushtri”. It is to be noted that the interpreter was Nabal Al Surami and in my judgement it is possible that the words “Al Suraimi” were the interpreter’s confirmation of the preceding deletion and mirrored the attaching of Miss. Richardson’s initials to it. It is relevant to note that there is no suggestion that any distinction is to be drawn between the use of “Fatimah” and “Fatima” or “Nasr”, “Nasser” and “Nassar” or “Al-Qashtri”, “Al-Qashtari” and “Al-Krushtri” for the name of Ali Mohammed’s wife. The different spellings result from different approaches to the transcription into the Roman alphabet of Arabic names. Similarly no significance attaches to the fact that Taha Al-Suraimi is at various points in the documents referred to as Taha Al-Surami. As will be seen when I deal with the next point made by Mr. Mitchell there is scope for debate about other aspects of the interpretation of the statement. In those circumstances I am unable safely to regard the statement as being one in which the Claimant said that his mother was Fatima Al-Suraimi and I find that it is more likely that he did not do so. In

those circumstances I draw no inference adverse to the Claimant from the presence of the words “Al Suraimi” at that point in the statement.

33. It appears that in the interview the Claimant was asked about Ali Mohammed’s passports and in particular about evidence of travel from Japan to Yemen in 1970. Mr. Mitchell drew attention to the following passage:

“I only have my father’s previous passports...My father held 3 British passports. He also had a Yemen passport, they are in Yemen. My father was a seaman and he may have travelled on these books between 1966 to 1973 [the period for which there is no British passport], I don’t know for sure, he may have used his Yemen passport. I do not have access to the Yemen passports as usually they are taken off the holder on renewal.”

34. The Defendant’s records show that Ali Mohammed’s three British passports had in fact been provided to the Defendant by the Claimant’s solicitors in January 2018. Thus at the time of the interview and statement they were not in Yemen but were in the United Kingdom. Mr. Mitchell invited me to regard this as showing unreliability in the Claimant’s account of the history and as demonstrating an assertion of matters which were incorrect and which the Claimant would have known were incorrect if he really was Taha Riash. The Defendant denied having said that the British passports were in Yemen and contended that he had said that they were with the Home Office with his answer having been mistranslated. It would be puzzling if the Claimant had in fact said that the passports were in Yemen because even if he is not really Taha Riash he would have known that they were with the Defendant because they had been provided to the Defendant by the solicitors acting for the Claimant and had presumably been provided by the Claimant to those solicitors. It is right to note that the most natural reading of the statement is as saying that the British passports and the Yemeni passport were in Yemen and that would explain the use of the plural “they are in Yemen” but I cannot exclude the possibility that there was some misunderstanding or difficulty in translation. The point assists Mr. Mitchell to the extent of indicating that there are puzzling features in the accounts which the Claimant has given and that there has not been a uniformly clear and consistent account. To that extent an issue as to the reliability of the Claimant’s contentions is raised but it is not appropriate to put any greater weight on this part of the statement.

35. Ali Mohammed’s Seaman’s Record Book of 1956 referred to a son called Mohammed. The Claimant had said that his brothers were Qaid and Qasem. Unsurprisingly he was asked about Mohammed in the interview and said that he did not know who he was. This is, indeed, a factor in support of the Defendant’s contentions. If Ali Mohammed had a son called Mohammed it would be expected that Taha Riash would know of him even though that brother (or half-brother) would have been at least fifteen years older than him. The force of this factor is reduced by the point that it is the Claimant’s case that he was brought up by other relatives on his mother’s side of the family after his mother’s death.

36. The Claimant entered the United Kingdom in 2007 having made an application for a visitor’s visa in the name of Taha Riash. The actual application is not in

the bundle but the bundle does contain the Defendant's record of the application containing material drawn from the application. That document contains the following note dated 19th February 2007 relating to the decision made by the Defendant's R. Simcott to grant the visa:

“Visit UK for three-week holiday. Evidence of funds in bank seen. Previous EU travel. Wife and children in UK not travelling. Letter from employer seen”.

37. Mr. Mitchell said that this was to be taken as indicating that the application had said that the applicant had travelled in the European Union previously and that he had a wife and children in the United Kingdom. The Claimant accepted that he had not travelled to any European Union country before coming to the United Kingdom; that his wife was not in the United Kingdom in 2007 (indeed his case is that she is still in Yemen); and that he has no children. Mr. Mitchell invited me to conclude that this showed the Claimant giving false information in support of his visa application thereby undermining his credibility and showing that his account could not be regarded as reliable. The Claimant said that the visa application had been compiled on his behalf by agents providing a service in preparing such applications. He said that he had given those agents correct personal information and had no explanation as to how false details as to his previous travel, the whereabouts of his wife, and the existence of children came to be given to the Defendant.
38. This material is undoubtedly supportive of the Defendant's position and does raise questions as to the Claimant's reliability. Although the actual application is not before me the most likely explanation of R. Simcott's note is that the application contained the information recorded in that note. Similarly the most likely explanation of such information being contained in the application is that it was provided by the Claimant or that if the false information was being provided by the agents knowingly then the Claimant was aware of this. I cannot exclude the possibility that there was some misreading or misunderstanding either on the part of the agents or on the part of the Home Office staff but the more likely explanation must be that this information came from the Claimant and was given in an attempt to bolster the visa application. That conclusion does not necessarily mean that the Claimant's current account of his identity is false but it does demonstrate that considerable caution is required in assessing that account.
39. The other points made by Mr. Mitchell carry rather less weight.
40. The report made to the Defendant that the Claimant is really Taha Al-Suraimi cannot assist me. The Defendant's intelligence report says that the report came from an untested source whose reliability could not be judged and no evidence about that source let alone evidence from that person has been put before me. The fact of the report having been made to the Defendant is relevant as part of the background and as a matter of history explaining how and why the process of revoking the Claimant's passport started but it does not otherwise advance matters. The assessment of the photographs of the Claimant and of Taha Al-Suraimi by Mr. Eberle and a colleague falls into the same category. It explains what caused the Defendant to revoke the Claimant's passport but Mr. Eberle's account of that is not put forward as opinion evidence which could cause me to

conclude that the Claimant is really Taha Al-Suraimi. The photographs in the bundle are copies of photographs of the Claimant and of Taha Al-Suraimi and it was, rightly, not suggested that I should engage in purporting to make my own assessment of whether they show the same person and I have not done so.

41. Taha Al-Suraimi's fingerprints were taken by the Defendant in June 2000 when the former applied for asylum. On 27th September 2016 Immigration Enforcement Officers attended at the Claimant's business premises. The Claimant was arrested on that occasion and consented to have his fingerprints checked against the Home Office records. It is not clear whether that was done and in particular whether the Claimant's fingerprints were checked against those of Taha Al-Suraimi. It would appear that they were not because such a check would probably have resolved matters one way or the other. It seems that Taha Al-Suraimi's fingerprints are no longer available and so that exercise cannot now be undertaken. The Defendant's agreement to the checking of fingerprints is a minor factor in his favour because if he is really Taha Al-Suraimi then he would have known that his fingerprints had already been taken in that name and so he would have been running a risk of exposure in agreeing to such checking. However, the long interval of time between the 2000 taking of Taha Al-Suraimi's fingerprints and the agreement to checking in 2016 considerably weakens the force of this point.
42. Taha Al-Suraimi had scarring which he said had been caused by cigarette burns. This scarring was seen by Immigration Adjudicator Narayan at the hearing of Taha Al-Suraimi's appeal against the refusal of his asylum claim. However, no photograph of the scarring is available and so the evidence in relation to it is limited to Adjudicator Narayan's description of it as "two marks on the inner aspect of his left wrist or hand" and the note of Taha Al-Suraimi's evidence in chief before the adjudicator referring to "two scars on wrists". The Claimant accepts that he has a scar on the inside of his left wrist which he says was caused by an injection given for meningitis when he was aged about twelve. This does not advance matters. The absence of a photographic record of Taha Al-Suraimi's scarring means that it is not possible to say whether it looks the same as that on the Claimant's wrist (which would be potent evidence for the Defendant) or that its appearance is wholly different (which would operate in the Claimant's favour). The fact that both the Claimant and Taha Al-Suraimi had some marking on the left wrist does not assist the Defendant in the absence of more detail about the scarring.
43. The solicitors who acted for Taha Al-Suraimi in respect of his asylum claim were "Jackson & Canter". In 2017 the same firm (though then operating under the style "Broudie Jackson Canter" or "Quality Solicitors Jackson Canter") acted for the Claimant. Mr. Mitchell prayed this in aid as an indication that the Claimant was really Taha Al-Suraimi on the basis that it showed the Claimant acting in the same way as Taha Al-Suraimi had done. In my judgement Miss. Mensah was right to say that there was no significance in the fact that two men living in Liverpool both engaged the same solicitors based in that city to act in immigration work. Indeed this is potentially a modest factor in the Claimant's favour. If the Claimant is really Taha Al-Suraimi then he would be running a risk of exposure if he went, even after a substantial period of time, to the

solicitors who knew him as Taha Al-Suraimi and used them to advance the contention that he was Taha Riash particularly where a major issue in the case is whether he is in fact Taha Al-Suraimi.

44. Mr. Mitchell drew attention to a number of further similarities between the Claimant and Taha Al-Suraimi. Both have the first name “Taha”; both had wives named Hana who were born in Yemen in 1977; both lived in Liverpool when in the United Kingdom; the Claimant’s brothers arrived in Liverpool in late 1999 and Taha Al-Suraimi also arrived at that time (albeit a month later than Qaid and Qasem Riash); and both were said to have brothers living nearby. Mr. Mitchell suggested that this showed the Claimant using a false identity but retaining details of his real identity to make maintenance of the deception easier. That would potentially be a cogent argument if it were being suggested that the current identity of the Claimant as “Taha Riash” was a wholly invented one in the sense that there is no such person as Taha Riash. In those circumstances there might be force in the argument that Taha Al-Suraimi was minimising the differences between his false identity and his real one so as to reduce the risk of exposure. However, the position changes if Taha Riash really exists. There is no challenge to the apparent authenticity of the birth certificate in the name of Taha Riash born in June 1971. If, as I am satisfied it does, that and the other material from Yemen shows that there really is such a person as Taha Riash then the question is whether the Claimant actually is that person rather than whether that identity is an invented one which has been assumed by Taha Al-Suraimi and in those circumstances the weight of these coincidences is very much reduced. The argument would then become one that Taha Al-Suraimi assumed the identity of Taha Riash because the similarities in their names and personal circumstances would make the deception easier. That is a possible explanation of these similarities but there is an element of circularity in the argument and it does not amount to a significant factor against the Claimant.
45. There was more force in Mr. Mitchell’s argument pointing to the absence of DNA evidence in support of the Claimant’s case. If he really is Taha Riash then a comparison between his DNA and that of either or both of his brothers Qaid and Qasem might be thought likely to be strongly supportive evidence. The Claimant responded to this point by saying that he was not on good terms with his brother Qasem and that the latter had refused to provide DNA material in support of his case and that Qaid is in Yemen. The absence of such evidence is by no means conclusive but it is to be noted that there is an absence of the material which the Claimant might be thought to have striven to obtain if his contentions were correct.
46. Mr. Mitchell submitted that it was of significance that the Claimant had failed to provide the documents and photographs which, in Mr. Mitchell’s contention, he could have been expected to have had available if his case were genuine. Thus Mr. Mitchell said that there was an absence of documents or photographs evidencing the Claimant’s life in Yemen in the period between December 1999 and February 2005 when Taha Al-Suraimi was in the United Kingdom. He also pointed to an absence of photographs showing the Claimant with his alleged brothers or of his life in the United Kingdom. Mr. Mitchell said that it was of

note that there was a paucity of documents showing the Claimant's use of the name Riash in the United Kingdom.

47. It is right that the Claimant's case would have been stronger if there had been a volume of such documents and photographs. However, the absence is not as stark as Mr. Mitchell asserts and does not operate as a factor against the Claimant's case in the way suggested. It is to be noted that, as explained at [44] above, the evidence has established that there really is such a person as Taha Riash born in Yemen in June 1971. The Claimant has not provided photographs showing himself together with his brothers but he explains that his relations with his twin brother are poor although he does say that his relations with his elder brother, who was in the United Kingdom until seven or eight months ago, are good. However, as I will explain in more detail below the documents which the Claimant has been able to produce in relation to Ali Mohammed indicate that he has the support of Ali Mohammed's family. The Claimant has produced photographs of the event which he contends was his marriage to Hana Al-Yaremi in 2004. Mr. Mitchell says that there is nothing to show the date or location of the events depicted in those photographs and that is right but the court document which I will consider shortly shows that Taha Riash was married in Yemen in 2004. The Claimant has produced a Yemeni national identity card issued in July 2002 in the name of Taha Riash and which I have concluded is an authentic document. Also of note is the material showing the use of the name Taha Riash by the Claimant. Thus in 2007 the Claimant's visa application was sponsored by Riash Trading the enterprise in which he had been engaged in Yemen. This is coupled with the material in the Defendant's own documents showing the use of the name Taha Riash by the Claimant and his acquisition of formal documents in that name. Thus the Defendant's Intelligence Report noted that the Claimant had two active bank accounts and one communications account and that he had made four applications for credit in the name Taha Riash. The Defendant undertook checks with DVLA, the Department of Work and Pensions and the Police National Computer. These showed that the Claimant had a driving licence and a national insurance number in the name Taha Riash and that he had used that name when in contact with the police. It follows that it is apparent that the Claimant has been using the name and identity of Taha Riash since he came to the United Kingdom in 2007 and that the same name and identity was used by a person in Yemen in the period when Taha Al-Suraimi was in the United Kingdom.
48. One of the documents the Claimant advanced in support of his case was a Yemeni court document recording the court decision of 13th September 2020 confirming that he had married Hana Ali Abdullah Al-Yaremi on 21st May 2004. The Claimant's case was that he had a marriage contract or equivalent document which had been approved by the imam who conducted the wedding but that to obtain a certificate the matter had to be put before the court. He said that he arranged for his brother in law to act as his attorney in obtaining the court order. However, the court document on one reading appears to record the Claimant as having attended in person and that the court was told that the original contract had been lost or damaged. Mr. Mitchell invited me to conclude that this again showed that the case being presented by the Claimant was unreliable. In my judgement the document is not indicative of this. The

document refers to the Claimant as being “resident in Britain” and when read as a whole makes it clear that the Claimant’s participation in the hearing was by the holder of a power of attorney. Moreover, it also shows that the decision as to the fact of the marriage was reached after the court received and considered witness evidence to that effect.

49. The effect of these points taken together is that the Defendant has identified a number of weaknesses in the Claimant’s case none of which is conclusive by itself and some are of very limited weight. However, they cannot be disregarded and in particular the material in relation to the 2007 visa application shows that caution must be exercised in considering the Claimant’s contentions. Moreover, the Claimant has failed to put forward material such as DNA evidence which could have been very powerful and potentially conclusive evidence in his favour. In the light of that I must consider whether the material which the Claimant has put forward is sufficient to counter those reservations and to demonstrate that it is more likely than not that he is Taha Riash.
50. As I have already indicated the question of whether Taha Riash really exists or whether that is a wholly fabricated identity is a significant one. The Claimant has produced a number of official Yemeni documents which I am satisfied are authentic and which show that there is a person known as Taha Riash born in Yemen in June 1971. The documents of particular note are the birth certificate, identity cards, passports, and marriage confirmation. The creation of a wholly false identity and the fabrication of documents to support that false identity is possible but it is not a likely explanation for these apparently reliable documents. In the absence of cogent evidence of such fabrication the most likely explanation of this material is that Taha Riash exists and I have already set out my finding that he was the legitimate son of Ali Mohammed.
51. If Taha Riash exists the question then arises of whether the Claimant is that man or is Taha Al-Suraimi posing as him. When seen in that light the Claimant’s case is compelling. It is not disputed that the photographs on the Yemeni passports and the identity cards show the Claimant. Thus if the Claimant is really Taha Al-Suraimi not only is he posing as Taha Riash but he has obtained Yemeni documents in that identity. Those would include an identity card issued in Yemen in 2002 and so at a time when Taha Al-Suraimi was claiming asylum in the United Kingdom. That possibility is to be considered against the background of the support which the Claimant has from the family of Ali Mohammed. In my judgement this is a very significant factor. As already noted the Claimant has not put forward evidence from his purported twin brother and he did not call Qaid Riash in support of the statement provided by the latter. He has, however, provided documents relating to Ali Mohammed which are accepted as genuine. These include three British passports in Ali Mohammed’s name; the Seaman’s Record Book; a Seaman’s card; and a NUS contribution book. There is no challenge to the authenticity of these documents and they include documents which Qaid and Qasem Riash provided in support of their successful applications for British passports. They are documents which were in the possession of the members of Ali Mohammed’s family. The Claimant says that he has been provided with them by those his brothers and that they have given the documents to him because he is their brother and the documents

relate to his father. That is the most probable explanation for the fact that the Claimant is able to adduce that material and is a potent consideration in his favour. It is also of note that Qaid Riash was present at the Claimant's work premises when the Claimant was arrested by Immigration Enforcement officers in September 2016. The Defendant's account of what happened on that occasion was set out in the letter written in December 2016 by UKVI to Louise Ellman MP. The letter not only referred to the presence of Qaid Raish but explained that he had made himself known to the officers and had presented his own British passport and supported the Claimant's position.

52. The Defendant's fall-back position was that even if I were not to conclude that the Claimant was really Taha Al-Suraimi I should find that the Claimant had not established that he was in fact Taha Riash. I have considered that argument and have reminded myself that the burden lies on the Claimant to establish his identity but that point does not otherwise greatly advance matters. There is scope for question and the Claimant could have made out a more compelling case but I am satisfied that the very substantially more probable explanation of the evidence when taken in the round and having particular regard to the official Yemeni documents and the material about Ali Mohammed which the Claimant has been able to produce is that the Claimant is not Taha Al-Suraimi and that he has established that he is indeed Taha Riash the son of Ali Mohammed.

Conclusion.

53. It follows that the Claimant has shown that he is Taha Riash and that Ali Mohammed was in Yemen at the time of his conception. As Mr. Mitchell accepted legitimate children of Ali Mohammed are British Citizens and accordingly the Claimant is a British citizen and is entitled to relief on that footing.