



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: AA/13558/2015

THE IMMIGRATION ACTS

Heard at Glasgow
on 10 April 2018

Decision & Reasons Promulgated
On 16 April 2018

Before

UPPER TRIBUNAL JUDGE MACLEMAN

Between

HOZAN ADHAM

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr S Martin, of Jain, Neil & Ruddy, Solicitors
For the Respondent: Mr M Matthews, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. The appellant sought asylum in the UK, saying that he was a Syrian Kurd who had deserted from the army.
2. The respondent refused his claim by a decision dated 1 December 2015:
 - ¶15 - 16, language analysis showed that he spoke Kurdish Bardini found in Iraq, not Syria;
 - ¶17 - 18, his knowledge was not consistent with his claimed nationality - he could not name the rebel groups fighting the army, and thought the President was a Sunni Muslim not an Alawi;
 - ¶20 - 23, not accepted to be Syrian or a deserter.

3. The appellant's grounds of appeal to the FtT state that he is Syrian and a deserter.
4. The proceedings in the FtT were adjourned several times, because the appellant produced a Syrian family book and identity card, which the respondent proposed to verify, and because the appellant intended to obtain an expert report on his language, documentation and national identity.
5. The respondent provided a statement by Ms Timms, assistant immigration officer, dated 22 November 2016, and reports on the two documents, dated 11 October 2016, opining that the family book was counterfeit, and that the identity document, being a photocopy, was unverifiable.
6. On 15 December 2016 the FtT issued directions, *inter alia* requiring the respondent to provide "details of the qualifications and experience of Ms Timms in assessing documents".
7. The respondent did not comply with those directions.
8. The appellant did not provide an expert report.
9. FtT Judge Mill dismissed the appellant's appeal by a decision promulgated on 11 July 2017. His decision includes the following:

"24. Not only can I not rely upon the copy Syrian ID card and family book ... but a more significant difficulty arises. I now approach the matter having concluded that the appellant has ... lodged fraudulent documents ... this significantly reduces his credibility.

25. The appellant does not provide convincing knowledge about life in Syria ... He also provides very skeletal detail ... regarding the reasons why he fled ...

...

32. The core of the ... claim is not detailed nor plausible ... his knowledge is substantially lacking. He has produced documents ... one of which is fraudulent ... The linguistic report is supportive of the fact that he is not Syrian ..."

10. The appellant's 3 grounds of appeal to the UT, set out in his application for permission dated 24 July 2017, may shortly be put thus:

(1) The respondent failed to provide evidence which justified the judge's finding that documentation was counterfeit; the witness did not attend; her training, length of service and familiarity with Syrian documentation were not stated; the alleged anomalies in the documentation were not explained; the judge "failed to properly consider documentary evidence relating to the appellant's nationality".

(2) The appellant was asked about Syria at interview, Q/A 150 - 193, and got only 5 answers wrong; he demonstrated adequate knowledge; the judge failed to scrutinise this, and the explanations for such deficiencies as the respondent had found, and "failed to take account of accurate information and evidence

provided by the appellant and, therefore, materially erred in law in his assessment of the appellant's nationality".

(3) It was highlighted to the judge that the appellant's home village was three kilometres south of the Iraqi border; the respondent failed to disclose this to the language analysts; the judge correctly found the report not determinative, but failed to take account of its acknowledged limitations and the facts "that it is more likely to be an accurate guide of where the appellant was socialised [and] that the appellant resided within very close proximity to the border between Syria and Iraq".

11. On 15 December 2017 FtT Judge Hollingworth granted permission, taking the view that the following points were arguable: the judge did not sufficiently analyse the nature and extent of the experience of Ms Timms; the finding that the family book was fraudulent attracted too much weight in the credibility analysis; that analysis was effectively concluded at ¶24; and the appellant's demonstration of knowledge at Q/A150 - 193 might have required a fuller analysis.
12. In a rule 24 response to the grant of permission the respondent says that the judge considered all the evidence and conducted a detailed analysis, and that "the lengthy grounds in essence do not amount to more than disagreement".
13. By letter dated 9 April 2018 the respondent applies for further evidence to be admitted. It is conceded that there has been lengthy delay and that the information should have been before the FtT in compliance with directions. The evidence is an email from Ms Timms explaining her training and experience in document examination, her source of information about safeguards identifiable in genuine Syrian family books, and further details of the absence of such features in the document produced by the appellant.
14. Mr Martin's submissions were along the lines of the grounds. The main further points I noted were these:
 - (i) The further evidence should not be admitted, as it could and should have been available to the FtT, and it came extremely late.
 - (ii) The point suggested by the grant of permission was adopted: the adverse conclusion was reached prematurely at ¶24, and little weight was given to anything else.
 - (iii) An appellant might not be wholly reliable, and might even have unwisely fabricated part of his account, yet be reliable on its core - which in this case was simply nationality.
 - (iv) The appellant had not produced an expert report, but that would test the language he spoke not his nationality, a limitation recognised in the report produced by the respondent. He had advanced a significant explanation in his evidence, the situation of his home near the border, which was fluid rather than watertight, so that the report should have been given much less significance.

- (v) Even if the further evidence was admitted, there would still be enough force in the grounds to require a remit to the FtT.
15. The main points which I noted from the submissions by Mr Matthews were these:
 - (i) There was enough in the witness statement by Ms Timms from which it could sensibly be read in that she had appropriate training and experience for the role in which she was employed by the respondent.
 - (ii) The original report on the family document was brief but sufficient to justify its conclusion.
 - (iii) If the further evidence was not admitted by the UT, and there was a further hearing, the evidence would be considered at that stage (a point which Mr Martin, realistically, accepted). There would be no useful purpose in deferring any issue to a further hearing.
 - (iv) The evidence from Ms Timms in its full form was more than enough to discharge the onus on the respondent to show the documentation to be fraudulent.
 - (v) It was telling that although the appellant had indicated that a report would be forthcoming from Dr Fatah, a well-known and respected expert in this area, no report was ever forthcoming, and no explanation for its absence was offered.
 - (vi) Analysis of the interview showed that the suggestion that the appellant was mostly right on 45 nationality questions was misleading. Most of those questions did not go to nationality. The wrong answers were telling, as identified in the refusal letter, and in further detail: e.g., he claimed to have served in the Syrian army, but did not know that most of its officers are Alawi; he did not know the name given to Kurds in Syria who do not have full nationality.
 16. Having considered the grounds and submissions, I find that no error of law by the FtT has been shown.
 17. The judge quoted at ¶21 the reasons by the document examiner and found them cogent: "The document is entirely inkjet printed, the corners are hand cut, there is printed simulation of embedded fibres. The needle perforation is of poor quality, the serial number on the front inside cover is inkjet printed. None of this is expected in a document of this type."
 18. Those reasons are briefly expressed, but it was well within the judge's scope to consider that the examiner knew what to look for, and that the features mentioned all pertain to a fraudulent document and not to one officially produced by the Syrian government.
 19. At ¶24 the judge went on to give that finding no more weight that he was entitled to do.
 20. Ground (1), even without further evidence being admitted to counter it, is not made out.

21. Ground (2) glosses over the significant areas of the appellant's ignorance. The judge was entitled to find that he did not know basic matters about officers and opponents which would have been obvious to someone who had served in the Syrian army.
22. As to ground (3), the judge noted the appellant's claim to come from near the northern part of the Iraqi Kurdish region and found that to be of some relevance, but not materially to undermine the report, which was not taken as determinative (¶16) but only as supportive of his conclusions (¶32).
23. Grounds (2) and (3) are only insistence and disagreement on the facts.
24. The application to admit further evidence came very late. However, I would admit it even at the "error of law" stage, because (a) procedural shortcomings of the respondent should not enable the appellant to benefit from the use of fraud and (b) as Mr Martin acknowledged, victory on this point was likely to be Pyrrhic, as the further evidence would come into play if the decision were to be remade.
25. In her recent email Ms Timms makes it clear that she has had training and that examination of documents for fraud has been part of her daily duties since 2004. Information about safeguards in genuine Syrian family documents comes from the Dutch government, a reputable source. She provides some further detail, explaining that security fibres are embedded randomly within the paper of a genuine document rather than printed on the paper as in the questioned document.
26. If ground (1) had been found to disclose error, I would have had no difficulty on all the evidence in substituting a further decision, dismissing the appeal.
27. The decision of the First-tier Tribunal shall stand.
28. No anonymity direction has been requested or made.



11 April 2018
Upper Tribunal Judge Macleman