



**Upper Tribunal  
(Immigration and Asylum Chamber)  
HU/03222/2017**

**Appeal Number:**

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 26 February 2019**

**Decision &  
Promulgated  
On 19 March 2019**

**Reasons**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE CHAMBERLAIN**

**Between**

**MONIRUL ISLAM  
(ANONYMITY DIRECTION NOT MADE)**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr. T. Shah, Taj Solicitors

For the Respondent: Mr. C. Avery, Home Office Presenting Officer

**DECISION AND REASONS**

1. By way of a decision promulgated on 18 January 2019 I set aside the decision of the First-tier Tribunal. The appeal came before me to be remade. It proceeded on the basis of submissions only.
2. I have taken into account the documents in the Respondent's bundle, the Appellant's witness statement dated 17 April 2018, the Respondent's guidance on examining identity documents, and four pages containing copies of Right of Abode vignettes provided by Mr. Shah.

3. At the outset of the hearing, I acknowledged that at [9] of my error of law decision I had confused the issue of whether the vignette was issued *in* Nigeria or *to a* Nigerian. It was a mistake to state that the vignette was issued in Nigeria, but rather I should have stated that it had been issued to a Nigerian. However, as accepted by both representatives, this was not material and did not affect my decision.

### **Burden of proof**

4. The burden of proof lies on the Appellant and the standard of proof is the balance of probabilities. However, where the Respondent alleges fraud, the burden of proof lies on the Respondent to show that the Appellant has practised deception or fraud.
5. It was accepted that the Appellant had applied under section 10 of the 2002 Act for a Certificate of Entitlement to the Right of Abode in the United Kingdom. In order to prove that he had the Right of Abode right of abode under section 2, it was agreed by both representatives that he needed to show that he was related as claimed to his father, and that he was born after his father had registered as a Citizen of the United Kingdom and Colonies ("CUKC").

### **The Respondent's Decision**

6. The Respondent listed the documents which had been submitted by the Appellant. These consisted of his current Bangladesh passport, a copy of his lost Bangladesh passport endorsed with a Certificate of Entitlement to the Right of Abode, his birth certificate, a school letter, a letter from the Mayor's Office in Nairal, Bangladesh, his father's certificate of registration as a CUKC, and a police crime reference number.
7. The birth certificate, school letter and letter from the Mayor's Office were issued in October 2011. The birth certificate showed that the Appellant's birth was not registered until 12 December 2011, 41 years after his claimed date of birth. No documentary evidence issued at or around the time of birth had been provided, nor had any other evidence of the relationship between the Appellant and Golam Rabbany Miah been provided. As such, these documents could not be relied on as an accurate record of the Appellant's date of birth, or to establish his relationship to Golam Rabbany Miah, registered as a CUKC on 22 October 1969.
8. Judge Adio found that, as the Appellant had provided a copy of a Certificate of Entitlement purportedly issued in Dhaka in 2005, and this certificate had not been revoked, that the Appellant was entitled to a Certificate of Entitlement. He made his finding on the grounds that there was no clear evidence presented to establish that the Certificate of Entitlement was a forgery. The reasons for refusal letter stated that regrettably, the Home Office file which contained the relevant evidence was lost and so the forgery report was unavailable at the time of the hearing before Judge Adio.

9. The Respondent conducted further enquiries and established that the copy passport provided bore the serial number B1121745, and contained a purported UK Right of Abode vignette number 7X317945, and purported Immigration Officer's landing stamp number 3185. The copy was examined by a specialist document examiner, who noted various irregularities and who came to the conclusion that the Right of Abode vignette was a counterfeit, and the landing stamp was a counterfeit. A copy of the report was enclosed.
10. A search of the visa application system, which records details of all applications for UK entry from overseas since 1998, had no results when interrogated to provide details of all visas issued at Dhaka where the applicant's family name was Islam, the forename started with "Mon" and the date of birth was 1 January 1970. If the Certificate of Entitlement presented was validly issued, the Respondent would expect a record to exist on this system.
11. "Examination of locally held records confirms that Right of Abode vignette number 7X317945 was not issued by Dhaka to your client in 2005, but was issued from this office on 21<sup>st</sup> October 2004 to a Nigerian national born 1969. These vignettes are secure documents, sequentially numbered in booklets, and the counterpart is updated with the recipient's details and retained by the issuing office when the vignette is affixed in the holder's passport. The counterpart of this vignette is held at this office and can be presented as evidence if necessary - a redacted copy of the counterpart is enclosed for your reference."
12. The Respondent was satisfied that sufficient evidence existed to conclude that the copy of the Certificate of Entitlement submitted in support of the application was counterfeit, and could not be relied upon to establish a Right of Abode in the UK or verify entitlement to be issued of such a Certificate of Entitlement to the Right of Abode. The application was refused as the evidence presented was insufficient to establish that the Appellant was related as claimed to Golam Rabbany Miah, or that he was born after Golam Rabbany Miah registered as a CUKC.

### **The Appellant's case**

13. The Appellant's case is set out in the documents referred to above. I do not intend to set out the Appellant's case here but will refer to it as and when necessary in giving the reasons for my decision.

### **Decision**

14. I have carefully considered the Document Verification Report ("DVR") provided by the Respondent (Annex D of the Respondent's bundle). The date at the top is 24 January 2015 but the date at the end is 24 August 2015. The substance of the report is contained at [8] to [12]. At [8] the writer of the report states that on 12 April 2012 he received a photocopied Bangladeshi passport. Upon examination of the photocopied documents he concluded that the purported Right of Abode vignette and Immigration

Officer's landing stamp were counterfeit and a tick box forgery report was produced. That tick box report is provided at Annex E1 of the Respondent's bundle (the "2012 Report"). At [3], under the heading "Reasons for above conclusion", it states:

"Page 12 of the above photocopied passport contains what purports to be an Immigration Officer's landing stamp from Heathrow Terminal 3 dated 14 December 2005 and numbered 3185. This stamp is counterfeit as there are errors within the font and registration of the text and it does not conform to the expected layout and design."

15. No details are given of the errors, or how it does not conform to the expected layout and design. Further, no copy of what a genuine stamp from Heathrow Terminal 3 in 2005 would have looked like is attached to the 2012 Report.
16. At [9] of the DVR the writer of the report states that he was able to compare the photocopied items with a specimen example but again, no specimen example has been provided with the DVR of what a genuine stamp from Heathrow Terminal 3 in 2005 would have looked like. At paragraph 10E there is reference to the Immigration Officer's stamp but this just repeats what is said at [3] of the 2012 Report. Therefore, although the writer of these reports, the same individual, states that he compared the photocopied items with a specimen example, the Respondent has not provided that specimen example to show how there are errors within the font and registration of the text, and how it does not conform to the expected layout and design. I therefore attach no weight to the DVR and the 2012 Report insofar as they refer to the Immigration Officer's landing stamp.
17. Turning to the Certificate of Entitlement to the Right of Abode vignette, the 2012 report states as follows:

"Page 13 of the same photocopied passport contains what purports to be a Certificate of Entitlement to the Right of Abode vignette bearing the serial number 7X317945. This vignette is counterfeit as there are errors within the font used and Home Office records confirm that this vignette was not issued in Dhaka."

18. The 2012 Report does not attach any vignette to show what it should look like, nor does it include any Home Office records showing where this vignette was issued.
19. In the DVR at [10A] to [10D] it states that "the spacing of the serial number is inconsistent" and the font used is not as expected. Secondly, "the alignment of the pre-printed text and title headings are misaligned". Thirdly, "the design of the document does not appear as expected". The writer acknowledges that it is a photocopy. Finally, it states at [10D]:

"Checks against Home Office records confirm that Right of Abode vignette numbered 7X317945 is a genuine serial number from a genuine vignette,

however, the genuine vignette was not issued in Dhaka, Bangladesh as this copied item purports.”

20. I note that there is far more detail in the DVR than the 2012 report, despite it being written three years later. There is no explanation for this.
21. In the Respondent’s bundle is a copy of a document which bears the number 7X317945. This appears to be the redacted copy of the counterpart of the vignette as referred to in the reasons for refusal letter, although it is not clear how it has been redacted. I set out at [9] of the error of law decision that this was the only evidence provided to corroborate the Respondent’s claim that the Appellant’s Right of Abode vignette was not issued in Dhaka. At the hearing before me Mr. Avery said that the vignette was issued in Leeds. He submitted that there was a secure process for the issuing of vignettes, and that they came in a book, like a cheque book. One part was detached and put into the passport, and the counterpart would be left in the book. However neither the 2012 Report nor the DVR refer to Leeds. Had the writer of the report known where the vignette was issued, I would have expected him to have stated this in the report.
22. The Respondent’s claim is that this photocopied document is the counterpart of the genuine vignette which bears the number 7X317945. First, it is a very poor copy, and it is not at all clear that it is a book which has been copied. Secondly, and more importantly, it does not indicate where it was issued. If this is the counterpart, it is not clear from where it has come, and neither is it at all clear to whom it was issued. From what I can make out, it states “MONSURU” on one line and ABAYO” on the next, but there are some more letters at the end of this word which I cannot accurately make out. Beneath this it states “NGA”, and then “7-11-1969”. It then states “2(1)(A)”, “A02”, “21/10”. There is no explanation of what this means.
23. No attempt has been made to provide the original counterpart, despite the Respondent stating in the reasons for refusal letter that this could be done.
24. The DVR states at [11] that the writer of the report is of the opinion that the purported Right of Abode vignette is a counterfeit. An example Certificate of Entitlement to a Right of Abode vignette has been provided in the Respondent’s bundle. However, it is not clear whether this has been provided by the Appellant or the Respondent, as the handwriting is very similar to that used in the grounds of appeal. A handwritten note states that it was issued by the British High Commission in Dhaka. The stamp on it which states “B. H. C. Dhaka” appears to be the same as the stamp on the Appellant’s. The date has been redacted. It is clear from the Respondent’s own guidance that the format of these vignettes has changed, so the date of any genuine example vignette is of paramount importance. I find that I can attach little weight to this vignette to show that the one provided by the Appellant was counterfeit given that I do not know when it was issued.

25. A second example has been provided, again a poor copy, and again, it appears that this has been provided by the Appellant, given that the handwriting is very similar to that used in the grounds of appeal. A handwritten note along the side states "Example of Right of Abode". This does not indicate where it was issued. Again, the date has been redacted. "Certificate of Entitlement to the Right of Abode" is not in the same font as that on the other example. If the Respondent is going to allege that one reason that the Appellant's Certificate of Entitlement is a forgery is because of the font, these two examples do not strengthen his case, given that the font used is different.
26. Taking all of the above into account, I find that the Respondent has not satisfied the burden of proof to show that the Certificate of Entitlement to the Right of Abode, or the Immigration Officer's stamp, were counterfeit. The DVR is not thorough which, given that the examiner examined a photocopy in 2012, and three years later, in 2015, was asked to remember what he had done in 2012, is arguably unsurprising. No evidence of the processes undertaken has been provided. In submissions, Mr. Avery described the process, and stated that it was secure, but I have no evidence to corroborate this. Further, as I pointed out in the error of law decision, given that I have no proper evidence as to where the copy of the counterpart allegedly issued to a Nigerian has come from, I have no proper evidence to show that the one issued to a Nigerian is not counterfeit. It states that it has come from the Respondent's records but I do not know where those records are or why they would be any more secure than the ones in Dhaka.
27. I find that the Respondent did not dispute that the Appellant lost his original passport. It was when the Appellant applied for a new Certificate of Entitlement to the Right of Abode for his new passport that the evidence was looked at again. Given that this is a serious allegation of forgery, the evidence before me is woefully inadequate to show that the vignette and the stamp in the lost passport were forged. I find that the DVR does not show that the vignette or the stamp are false, given the lack of detail, and the lack of comparable examples. I therefore attach no weight to the DVR.
28. The Respondent stated in the reasons for refusal letter that little weight could be attached to the documentary evidence provided. The same was submitted by Mr. Avery, on the grounds that the stamp and vignette were forged. However, I have found that the Respondent has not shown that they were forged. No proper consideration was given in the reasons for refusal letter to the Appellant's father's Certificate of Registration as a CUKC. As I stated in my error of law decision, the Confirmation of Registration as a Citizen of the United Kingdom and Colonies which was provided by the Appellant was obtained from the National Archives. It is certified as a true and authentic copy of the Appellant's father's Confirmation of Registration as a Citizen of the United Kingdom and Colonies (C2 of the Respondent's bundle).

29. As I set out in the error of law decision, the information about the Appellant's parents which is found in this certificate, his father's name and his father's wife's name, Shafikun Nessa, is the same as that contained in the Appellant's passport (B1 of the Respondent's bundle). It is not the Respondent's case that the passport itself was not genuine - the Respondent's case was that the vignette and stamp were counterfeit, not the passport. On the copy of the passport (B1) it can clearly be seen that the Appellant's father and mother are the same as set out in the Certificate of Registration (C2). There is no acknowledgement of this in the reasons for refusal letter. Neither is there any acknowledgement that one of the documents provided by the Appellant had been obtained from the National Archives, and certified as a true and authentic copy by the National Archives (C1).
30. I find that it is significant that the same names of the Appellant's parents are listed on the document certified as true by the National Archives and also in the Appellant's passport, which it has not been alleged is false. Therefore, there are two documents in the Respondent's possession, provided to the Respondent when the application was made, which show that the Appellant's father was Golam Rabbany Miah and that Golam Rabbany Miah registered as a Citizen of the United Kingdom Colonies on 22 October 1969.
31. Further, the copy of the passport states that the Appellant's date of birth is 1 January 1970 (B2). The passport was issued in January 2005, prior to the birth certificate. I find that the Appellant was born after his father registered as a CUKC.
32. I have found that no weight can be attached to the DVR, and that the evidence provided by the Respondent does not go anywhere near to establishing that the landing stamp and vignette were forged. I find that I can rely on the evidence provided by the Appellant which shows that that he is related as claimed to his father, and that he was born after his father registered as a Citizen of the United Kingdom and Colonies. I find that he has shown that he is entitled to the Right of Abode under section 2(1) of the 2002 Act.

### **Notice of Decision**

The appeal is allowed.

No anonymity direction is made.

Signed

Date 13 March 2019

**Deputy Upper Tribunal Judge Chamberlain**

**TO THE RESPONDENT**  
**FEE AWARD**

As I have allowed the appeal and because a fee has been paid or is payable, I have considered making a fee award. The Respondent did not satisfy the burden of proof to show that the Appellant provided forged documents. He had evidence before him in the form of the copy of the passport, which he did not allege to be forged, and the certificate from the National Archives, that the Appellant was related as claimed to his father, and that he was born after his father registered as a CUKC. In the circumstances, I make a fee award for the entire fee paid.

Signed

Date 13 March 2019

**Deputy Upper Tribunal Judge Chamberlain**