



**Upper Tribunal
(Immigration and Asylum Chamber)**

Appeal Number: PA/07065/2017

THE IMMIGRATION ACTS

**Heard at Bradford
On 28 September 2018**

**Decision & Reasons Promulgated
On 20 March 2019**

Before

DEPUTY UPPER TRIBUNAL JUDGE BAGRAL

Between

**AMJAD [N]
ANONYMITY DIRECTION NOT MADE**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the appellant: Mr C Cole, Solicitor

For the respondent: Mr M Diwnycz, Senior Home Office Presenting Officer

ERROR OF LAW

Summary of asylum claim

1. The appellant claims to be a national of Syria. He contends that he has a well-founded fear of persecution in Syria from State agents and of serious harm in consequence of the prevailing country conditions.

Procedural history

2. In a decision dated 13 September 2017 First-tier Tribunal Judge Buckwell dismissed the appellant's appeal. Before Judge Buckwell the respondent disputed the appellant's nationality; he believed the appellant is a national of Egypt. The dispute over the appellant's nationality was the primary focus of the First-tier Tribunal as it was accepted by the respondent that if the appellant is a national of Syria his appeal should be allowed. Both parties adduced expert evidence in support of their contrary positions. The respondent's expert report had been considered and accepted in an earlier appeal heard by Judge Hillis, and the appellant's expert report now adduced before Judge Buckwell disagreed with conclusions of the respondent's expert. Judge Buckwell properly took the findings of Judge Hillis as his starting point and concluded that the appellant's expert report could not override the respondent's expert report which had been considered fully by Judge Hillis. In the circumstances, Judge Buckwell concluded that it would not be appropriate to prefer the opinions of one expert over the other and accordingly found that the appellant had failed to establish that he is a national of Syria.
3. The appellant applied for permission to appeal. The grounds essentially assert that the decision of Judge Buckwell was inadequately reasoned and failed to properly engage with the appellant's expert evidence.
4. The Upper Tribunal granted permission to appeal on 23 January 2018.
5. The respondent submitted a rule 24 response dated 12 March 2018 in which he submitted that appellant's application for permission to appeal was not opposed and invited the Tribunal to remit the matter to the First-tier Tribunal for rehearing.

Error of law

6. At the beginning of the hearing Mr Diwnycz confirmed on behalf of the respondent that the appeal was unopposed and both representatives agreed that the error of law was such that the decision needed to be remade completely by the First-tier Tribunal. Having had regard to paragraph 7.2 of the relevant *Senior President's Practice Statement* and the nature and extent of the factual findings required in remaking the decision, I decided that that was the appropriate course.
7. Whilst uncharacteristic, it is evident that Judge Buckwell fell into error in his approach and consideration of the appellant's expert evidence which was dealt with swiftly at [39]. The expert evidence was dismissed essentially on the basis that the issue of the appellant's nationality had been resolved on an earlier occasion by the respondent's expert. The appellant's expert however challenged those findings in a detailed report and the judge was required to

demonstrate that he had engaged with the substance of the conflict of opinion and resolve them and/or provide reasons as to why the opinion of the appellant's expert could not be preferred. It is accepted by the respondent that this task was not adequately performed by Judge Buckwell, and I agree that the reasoning at [39] is inadequate and flawed. I thus find that the judge erred in law and that the error is material.

Decision

8. The decision of the First-tier Tribunal involved the making of a material error of law. Its decision cannot stand and is set aside.
9. The appeal shall be remade by the First-tier Tribunal de novo by a judge other than Judge Hillis and Judge Buckwell.

Signed:

Deputy Upper Tribunal Judge Bagral

Date:

31 December 2018