



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2024-000025
First-tier Tribunal No:
PA/50646/2023
LP/01333/2023

THE IMMIGRATION ACTS

Decision & Reasons Issued:
On the 22 August 2024

Before

UPPER TRIBUNAL JUDGE KAMARA
DEPUTY UPPER TRIBUNAL JUDGE GRIMES

Between

FMAJ
(ANONYMITY ORDER MADE)

Appellant

and

Secretary of State for the Home Department

Respondent

Representation:

For the Appellant: Mr Z Raza, counsel instructed by Marks and Marks Solicitors
For the Respondent: Ms A Ahmed, Senior Home Office Presenting Officer

Heard at Field House on 6 August 2024

Order Regarding Anonymity

Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, the appellant is granted anonymity. No-one shall publish or reveal any information, including the name or address of the appellant, likely to lead members of the public to identify the appellant. Failure to comply with this order could amount to a contempt of court.

DECISION AND REASONS

Introduction

1. This decision should be read in conjunction with the decision issued on 15 March 2024 in which the Upper Tribunal found that the First-tier Tribunal had erred in law. The decision of the First-tier Tribunal was set aside, and the appeal was adjourned to be re-heard by the Upper Tribunal.

Background

2. In summary the background is that the appellant, who is now 26 years old, claims to be a national of Syria. He applied for asylum in 2013 but failed to attend his interview and his claim was treated as withdrawn. On 5 June 2020, the appellant made further submissions based on the country situation and on 28 October 2020 he was referred to the National Referral Mechanism (NRM) as a potential victim of trafficking. A negative Conclusive Grounds decision was reached on 28 October 2022.
3. On 12 January 2023, a decision was made to refuse the appellant leave to remain based on his further submissions. The Secretary of State did not accept that the appellant was a national of Syria, for a number of reasons including his inability to correctly answer questions about Syria during his asylum interview, the view of an interpreter that he spoke Arabic with an Egyptian accent, his apparent family links to an Egyptian national (G) claiming to be his brother and concerns about a birth certificate he provided. The appellant appealed against that decision.
4. The appellant's hearing before the First-tier Tribunal had previously been adjourned for the respondent to arrange for a document verification report on the birth certificate and finger-print analysis as it was believed that the appellant and an Egyptian national G were one and the same. At the substantive hearing, the representatives agreed that the sole issue to be determined was that of nationality and that if the appellant was found to be a Syrian national, he would be entitled to international protection. The respondent's representative argued that the appellant had applied for asylum as an Egyptian national on 26 January 2021 on the grounds of belonging to the Muslim Brotherhood but had withdrawn the claim the same day. The National Document Fraud Unit were unable to comment on the authenticity of the birth certificate without sight of the original.
5. The First-tier Tribunal Judge found that the appellant had failed to establish that it is reasonably likely that he is a national of Syria and dismissed his appeal.
6. Following the hearing before the Upper Tribunal, the decision of the First-tier Tribunal was set aside, save for paragraphs 43,45 and 47 as follows:

"43. However the Appellant has produced the documentation he was given on arrival in the United Kingdom (IS96) recording his name as Fathi Mohammed Abdul-Jalil, his date of birth as October 3 1997 and perhaps most significantly his port reference as DEU/4256784. The documents produced by the Respondent for Mr Ghonin give a fingerprint match to those of Mr Yasser Mohamed Abdel-Jahil which were taken on May 30 2013. His port reference is DEU/4256816 which differs from that of the Appellant. It is said on the Appellant's behalf that Mr Ghonin is likely to be the person who claimed asylum with the Appellant and suggested that they pretend to be brothers. That may well be right.

...

45. At the hearing Ms Hogben suggested that the person answering the telephone on August 9 was the Appellant. I do not accept that. The Appellant used his correct name when applying for asylum in 2013 and as far as I am aware has never adopted the identity of Yasser Mohammed Abdel- Jalil. Accordingly any match between the fingerprints of Yasser Mohammed Abdel-Jahil and Mr Ghonin does not show that the

Appellant and Mr Ghonin are the same person. I am therefore not satisfied that the Appellant ever claimed asylum as an Egyptian national.

...

47. According to the record of the asylum interview the interpreter said that the Appellant had an Egyptian accent due to the way he had pronounced words in regard to the pharmacy near where he claimed to live. In response the Appellant said he had been forced to speak Egyptian so his accent was Egyptian (AS.Q54). He said he knew from the beginning that the interpreter was Syrian, he was forced to speak Egyptian and if he said "one word in Egyptian it does not mean" he is not Syrian (AS.Q54). It is of course no part of an interpreter's function to report on the language or dialect used. The expertise needed to identify a language or dialect is not typically the expertise of an interpreter - see AA (Language diagnosis: use of interpreters) Somalia [2008] UKAIT 00029."

The resumed hearing

7. At the resumed hearing we had the following documents before us:
 - Upper Tribunal composite bundle (205 pages);
 - Appellant's hearing bundle (9 pages).
8. At the hearing it was accepted that paragraphs 43, 45 and 47 of the First-tier Tribunal's decision are preserved as set out above. At the outset of the hearing the parties confirmed that the issue for determination by the panel is whether the appellant has established that he is a Syrian national. Ms Ahmed accepted that, if he has, he is entitled to international protection.
9. We heard oral evidence from the appellant through an interpreter having ensured that he and the interpreter understood each other. We heard submissions from Ms Ahmed and Mr Raza. We reserved our decision.

Remaking the decision - Findings

10. We have considered the appellant's claims as to his identity documents. The appellant has been consistent in his account that his father's garage and their home were destroyed in 2011 (eg at paragraph 4 of the witness statement of 16 May 2020, Q9 asylum interview and in oral evidence). He has been consistent in his claim that his passport was destroyed in this incident. In oral evidence the appellant said that he had never seen his passport. We take account of the fact that the appellant's home was destroyed in 2011 when he was aged 13 or 14. We do not consider that there is an inherent inconsistency between the appellant's evidence that he had never seen his passport and that it was destroyed when his home was destroyed. Both statements could be true at the same time.
11. The appellant has been consistent in his claim that his mother sent him the birth certificate when he was in Turkey (eg paragraph 19 witness statement of 11 April 2023). In oral evidence the appellant gave the name of the man he said gave him the birth certificate. However, as he said that he did not see this man again, we do not find that his failure to give the name earlier damages the credibility of his account on this matter.

12. The appellant maintains that the document he had was the original birth certificate and that he submitted the original certificate to the respondent at the first hearing in the First-tier Tribunal. The respondent referred the document to the National Document Fraud Unit for examination. The document was examined by an immigration officer who prepared a brief report dated 21 October 2023. There is nothing in the report to indicate that the person who carried out the examination is an expert in Syrian documents and nothing to indicate that the birth statement submitted by the appellant was compared to genuine Syrian birth certificates. Instead the author states that the document *'has been printed in its entirety, including the purported wet ink authentication stamps, with an inkjet print process'* and concluded that the document is a copy. As a result the author was unable to comment on the authenticity of the document without having sight of the original. Apart from suggesting that the document submitted by the appellant is a copy, this report does not add anything to the assessment of this document.
13. The English translation of the birth certificate submitted by the appellant is entitled 'birth statement'. It was issued in 2008. Although she submitted that the appellant had not explained why the certificate was obtained over 10 years after his birth, this was not put to the appellant in cross examination to seek an explanation. In any event, given that the appellant would have been 10 years old in March 2008 when this birth certificate was issued, we do not consider it reasonable to expect him to know why it was issued at that time.
14. The birth statement states that the birth was registered at Bab El Hadid in Aleppo. The appellant has been consistent in his claim that he lived in Aleppo, in the Alshaar area or 4 years then in Hai Salah Al Deen (Q47 asylum interview). There is nothing to say that his birth would not have been registered in another area within Aleppo. We do not accept that this casts any doubt on the reliability of the appellant's birth certificate as suggested by Ms Ahmed.
15. Apart from at 5.2 of the Statement of Evidence Form (SEF), the appellant has been consistent in his claim that he left Syria without any documents. Apart from at 5.1 of the SEF the appellant has been consistent in his claim that he had his birth certificate when he entered the UK. The appellant said in oral evidence that his previous representative completed this form without properly consulting him. Given that some of the answers in this form conflict with an otherwise consistent account we are satisfied with the appellant's explanation for the discrepancies and find that they do not damage his overall credibility.
16. We accept the appellant's explanation as to the apparent discrepancy between the signature in his witness statement dated 16 May 2020 and his subsequent statements that he used to sign his signature in Arabic but that he now signs in English. We are satisfied that there is no damage to his credibility arising from the apparent discrepancy in his signature.
17. The appellant has also been consistent in his claim in interviews, statements and oral evidence that he lost contact with his mother after his phone was taken from him following his arrival in the UK. He has consistently said that he asked Migrant Help for assistance in tracing her through the Red Cross but that he has not heard anything.
18. Ms Ahmed highlighted that in the asylum interview the appellant accepted that he speaks with a Lebanese and an Egyptian accent (final section page 193 of the

composite bundle). We note the preserved findings of the First-tier Tribunal Judge in relation to the observations of the interpreter at the hearing. We take into account that the comments at the end of the asylum interview were in response to those observations which were not properly made. Although made in response to inappropriate comments by the interpreter, we note the appellant's explanation as recorded in the asylum interview that he has a Lebanese friend and that he watches a lot of Egyptian TV, that Abo forced him to speak Egyptian, that he had left Syria over 10 years previously and that he has only one Syrian friend. We further take into account that the appellant left Syria in January 2013 when he 15 years old. In these circumstances we attach little weight to the appellant's recorded comments and we find that the appellant's admission that he has a Lebanese or Egyptian accent does not damage the credibility of his claim to be a Syrian national.

19. Ms Ahmed submitted that there is a discrepancy in the appellant's evidence about his claimed relationship with a woman in the UK (B). In his witness statement dated 11 April 2023 the appellant said that he had been in a relationship with B, a Romanian national, for 2 years. However it is recorded in the First-tier Tribunal decision that the appellant said in oral evidence that he had only ever been friends with B [15]. In oral evidence before us the appellant said that he and B were initially friends and then it became a relationship. We accept that there is a discrepancy in the appellant's account of the nature of his relationship with B. However we consider that this is not a matter which goes to his asylum claim. We find that any discrepancy as to this matter does not damage the credibility of the appellant's account overall.
20. Mr Raza submitted that little weight should be attached to the conclusive grounds decision as it is based on the assumption that the appellant claimed asylum in the name of G and claimed to be an Egyptian national. We accept, on the basis of the preserved findings of the First-tier Tribunal Judge, that it is likely that G is the person who claimed asylum with the appellant and suggested that they pretend to be brothers. As the conclusive grounds decision attaches weight to the discrepancies arising because of the alternative identity and claim that G was the appellant's brother, the weight to be attached to that decision is reduced. Accordingly we find that it does not detract from the appellant's overall credibility.
21. We have considered the appellant's responses in the asylum interview to questions about Syria (Q 47 onwards). Mr Raza properly submitted that the respondent did not take issue with any specific answer to these questions, instead saying at paragraph 13 of the refusal letter that the appellant's responses to several of the questions asked were either inaccurate or incorrect when compared to the background information about Syria. The Secretary of State has not specified the answers said to be inconsistent with the background information about Syria and has not submitted any further evidence to support any such assertion. We find that there is nothing in the appellant's responses in the asylum interview to questions about Syria which damages his credibility.
22. Looking at all of the evidence in the round we are satisfied that the appellant has discharged the burden upon him to establish that he is a national of Syria.
23. Accordingly, as confirmed by the respondent at the hearing, the appellant has established that he has a well-founded fear of persecution on return to Syria for a Convention reasons.

Notice of Decision

24. The appellant's appeal is **allowed**.

A Grimes

Deputy Judge of the Upper Tribunal
Immigration and Asylum Chamber

8 August 2024