



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: HU/13572/2016  
HU/13577/2016  
HU/13580/2016  
HU/13586/2016  
HU/13591/2016

**THE IMMIGRATION ACTS**

Heard at Field House  
On 8<sup>th</sup> June 2018

Decision & Reasons Promulgated  
On 18<sup>th</sup> June 2018

Before

UPPER TRIBUNAL JUDGE MARTIN

Between

QABIALA [S]  
YOUSEF [S]  
ETIDAL [S]  
ASMAA [S]  
SHAIMA [S]

(ANONYMITY DIRECTION NOT MADE)

Appellant

and

ENTRY CLEARANCE OFFICER - AMMAN

Respondent

**Representation:**

For the Appellant:

Mr S Muquit (instructed by Freemans Solicitors)

For the Respondent:

Ms S Vidyadharan (Senior Home Office Presenting Officer)

**DECISION AND REASONS**

1. This is an appeal to the Upper Tribunal by the Appellants, with permission, in relation to a Decision and Reasons of Judge Ross of the First-tier Tribunal promulgated on 8th December 2017 following a hearing on 10th October 2017.
2. The Appellants are a mother and her four children. They were born respectively on 1 June 1954, 23 April 1995, 23 April 1995, 24 May 1996 and 20 June 1997.
3. They had made application to the Entry Clearance Officer in Amman to join the sponsor, [SS] in the UK. He is the husband of the first Appellant and the father of the other four.
4. The Sponsor has been recognised as a refugee in the UK as an undocumented Bidoon from Kuwait.
5. The Appellants' case is that they fled Kuwait to Jordan and from there made an application to join the Sponsor under the Refugee Reunion provisions of the Immigration Rules. The decision, including a consideration of human rights carried a right of appeal as the refusal of a human rights claim.

### **Background**

6. The background to this case is that there had been a previous application and refusal in which the appellants were successful on appeal. That application had been refused on the basis that the Entry Clearance Officer did not accept the relationships but at the appeal DNA evidence was adduced. However, when the Appellants applied for visas following their successful appeal, the Entry Clearance Officer noted that since the appeal and unknown to the Judge investigations had established that the certificate of marriage and birth registration certificates submitted for the children were said to be not genuine. The application was therefore refused under paragraph 320 (7A) the Immigration Rules.
7. The Entry Clearance Officer provided to the First-tier Tribunal document verification reports in relation to the marriage certificate between the Sponsor and first Appellant and the birth certificates in relation to the children. The Entry Clearance Officer also produced a statement from David Fairbank, the Regional Operations Manager based at the British Embassy in Amman. In that statement it is explained that he has oversight of applications received by UKVI in Amman and is aware that between 2012 and 2013 they received a disproportionate number of family reunion applications from applicants claiming to be Kuwaiti Bidoons. During one six-month period 785 applications were submitted in Amman compared to only 66 in Kuwait. The majority of applicants failed to provide satisfactory evidence of their identity, nationality or relationship to their UK sponsors.
8. Mr Fairbank goes on to say that in the first and second quarters of 2013, interview programmes were conducted wherein most applicants interviewed offered implausible accounts of their overland journey from Kuwait to Jordan and their claims

to have entered Jordan illegally. The majority were said to have little or no knowledge of Kuwait. Also, 52 passengers (different times) who arrived undocumented at Heathrow airport and claimed to be Kuwaiti Bidoons were found to have boarded flights with genuine Iraqi passports and US visas issued in Baghdad.

9. Mr Fairbank goes on to say that in the first and second quarters of 2014 the Jordanian Ministry of the Interior communicated with the British Embassy in Amman raising concerns that people who had been granted visas for the UK at the British embassy had been seeking to leave Jordan using different identities to those with which they entered the country. The MOI stated that they had originally entered Jordan on Iraqi documents. Also, the International Red Cross raised concerns with the British Embassy in Amman having been approached by claimed Kuwaiti Bidoons for assistance in providing exit documentation from Jordan and suspected identity fraud.
10. A group of 18 applicants who had been issued with family reunion visas as Kuwaiti Bidoons were encountered at Queen Alia international airport attempting to travel to London and presented to the airline family reunion visas as well as genuine Iraqi passports. All of the Iraqi passports were in different identities.
11. It was agreed between the Jordanian MOI and the British Embassy that persons who do not hold a valid travel document and qualify for a UK visa should be referred to the MOI prior to the issue of visas in order to validate identities. Although initially 50 were requested to collect a Ministry of the Interior referral letter to enter into a process of verification with the Jordanian authorities, only half of the applicants collected their letters and none subsequently attended the Ministry.
12. In the fourth quarter of 2014 the Embassy applied paragraph 28 of the Immigration Rules enforcing that applicants could only submit an application in the location where they are ordinarily living. Following that applications from Kuwaiti Bidoons for family reunion virtually ceased in Amman without there being a significant corresponding increase in Kuwait.
13. Following a further piece of work it was identified that 11 Sponsors, linked to 51 families, had previously made applications to the US as Iraqis in a different identity.
14. One family reunion applicant voluntarily attended the British Embassy in Amman advising that her family were all in fact Iraqi and had never been to Kuwait. She had Iraqi passports for the entire family group in alternate identities
15. Mr Fairbank went on to say that in the first quarter of 2015 a programme of document verification of birth and marriage certificates submitted with historic Kuwaiti Bidoon family reunion applications in Amman was carried out. This identified that in every case where certificates had been presented and retained the certificates were verified as non-genuine.

16. In the second quarter of 2015 a group of three family reunion applicants claiming to be Kuwaiti Bidoons were encountered at Queen Alia International airport in possession of Iraqi passports and three family union applicants claiming to be Kuwaiti Bidoons were encountered at Istanbul airport in possession of Iraqi passports.
17. In the third quarter of 2015 two family reunion applicants claiming to be Kuwaiti Bidoons were encountered at Beirut airport in possession of Iraqi passports.
18. Checks made with the Kurdistan Regional Government in Iraq confirmed the passports that they had been shown were genuine
19. The statement of Mr Fairbank outlines the situation and the investigations that have been carried out by the Embassy in Amman in relation to refugee reunion applicants generally. The bundle contains document verification reports in relation to the documents submitted in this appeal.
20. With regard to the report in relation to the Certificate of Entry of Marriage it is said that these are a record of the entry made in a ledger held at the Mosque on the day the parties declare they have entered into marriage. The report says that the author has examined a copy of the Certificate of Entry of Marriage presented with the current application and found it to be not genuine. The reason for that is that it is in the same format and bears the same signature as certificates submitted by other claimed Kuwaiti Bidoons who have been established to be Iraqi nationals. Furthermore, a representative from the British Embassy in Kuwait provided the Chief Administrator of the Mosque in question with a sample of the certificates. He, a Mr S. Al Selayteen confirmed that Jassim Abdul Latif Al Ghanim, the signatory of the certificates, was not and had never been an officiating Imam at the Mosque.
21. So far as the birth certificates are concerned, the author states that he had examined the copies of the Ministry of Health birth registrations presented with the application. As he had only seen photocopies he was unable to comment on the colour and type of paper. However, he noted that the documents were in identical format to documents sent to the Kuwaiti authorities for verification. A Mr Jassim Al Akari from the Ministry of Health advised that the documents sent for verification were forged as a genuine birth records printed from the Ministry of Health were in a different format. The format of the documents submitted in this case and checked by the author was identical to those found to be forged previously and on that basis he found the submitted birth registration documents also to be not genuine.

### **The First-tier Tribunal Hearing**

22. The First-tier Tribunal heard evidence from the Sponsor and set out the documents produced by the Respondent. He found at paragraph 16 that the Respondent had proved to a high degree of probability that the marriage certificate was not genuine and also found that the Respondent had also established that the birth certificates were not genuine either. The birth certificates, he noted to be in the same format as other

documents presented by Iraqis and found to be forged and were in a landscape format rather than portrait with key areas missing. He therefore found the Appellants could not succeed and in considering Article 8 found refusing them entry proportionate given the deception that had been practised.

### **Error of law**

23. Permission was granted on the basis that the Judge had failed to address the Appellants' submissions regarding the documents before concluding that they were false. It is correct to say that the Judge has not considered or made any findings in relation to the skeleton argument submitted on the Appellants' behalf concerning those documents. That is an error of law.
24. The other two grounds "piggyback" on the first because they are that the Judge has not taken proper account of all relevant matters in considering proportionality and in particular the culpability of the children and the general unreasonableness of excluding the family members of a recognised refugee. The latter grounds would only have force if the Judge's conclusions on the documents were flawed.
25. Clearly the authenticity or otherwise of the documents is central to this case and therefore the error must be material. I therefore set aside the Decision and Reasons of the First-tier Tribunal. It being agreed there was no need for oral evidence, I proceeded to redecide it on the basis of submissions.

### **My Decision**

26. The Home Office Presenting Officer on behalf the Entry Clearance Officer made very short submissions relying on the refusal and documents submitted. The Appellants' Counsel relied on a supplementary skeleton argument which dealt with the documents.
27. He argued that the document verification reports should not be given weight because the author only had photocopies of the originals, not the originals. So far as the marriage certificate was concerned the ledger at the Mosque had not been checked to see whether this couple's names had been entered; the document had simply been compared with others that have been found not to be genuine.
28. The Entry Clearance Officer's evidence was that those that have been checked were found to be Iraqi nationals but there is no evidence or suggestion in this case that the Appellants are Iraqis. He pointed out that the Sponsor in this case was granted indefinite leave to remain in the United Kingdom after the refusal of the Appellants' claim and therefore after suspicions were raised about the family. Indefinite leave to remain was granted in January 2017 while the refusal was in 2016. The Sponsor's status has never been challenged and has not been investigated further by the Home Office.
29. He also referred to the earlier decisions that went in the Appellants' favour.

30. With regard to the Imam who signed the document never having worked at the Mosque, he argued there was no evidence to support that or indeed details of what was checked.
31. He reiterated the fact that Kuwaiti Bidoons may not be able to access official documents.
32. With regard to the birth certificates, again he argued that the author of the report saw only photocopies and so was unable to properly identify whether the format was correct or whether indeed the original was landscape as opposed to portrait. There was no evidence that the photocopy was an identical copy of the original and the evidence was, he argued, inadequate to conclude that the documents were fraudulent. The Appellants deny using any deception and the evidence from the Entry Clearance Officer was inadequate to show that they did.
33. Having considered in detail the evidence from the Entry Clearance Officer and skeleton argument and submissions before me I have no doubt whatsoever that the Appellants in this case did indeed produce false documents to the Entry Clearance Officer.
34. It is quite clear that there has been fraud, practised on a massive scale by persons claiming to be undocumented Bidoons from Kuwait and seeking entrance to the United Kingdom under the refugee reunion provisions. The Embassy has clearly done a great deal of work in investigating such cases. The fact that the marriage certificate itself was not compared to the ledger at the Mosque I do not find damages the probity of the DVR. What the Appellants cannot provide any satisfactory explanation for, is that their marriage certificate is identical to those that were actually checked and found to be fraudulent and most damning of all, the signatory, according to the Chief Administrator of the Mosque is not and never has been an Imam at that Mosque. I am entitled to rely on evidence obtained from the Mosque's Chief Administrator and I am entirely satisfied on the basis of that evidence that the document is fraudulent.
35. Whilst the point about the photocopies of the birth certificates perhaps not being identical copies of the originals has some force, again the author of the report has had sight of many such documents which have been found to be false. I disagree that photocopying can alter whether a document is portrait or landscape and it also cannot account for missing information. The author compared the certificates to a great number of similar documents proven to be false and again on the basis of extensive investigation carried out by the Embassy I am entirely satisfied that those documents are also false.
36. Any argument about proportionality falls away in light of the fact that this family sought to enter the UK by producing what they know to be false documents in an attempt to deceive the Entry Clearance Officer. It is true that evidence has not been adduced to suggest that they are Iraqis, but neither has any evidence been adduced on their behalf to establish they are in fact Kuwaiti, despite knowing the Entry Clearance

Officer's concerns. The fact remains that they relied upon fraudulent documents and did so deliberately. It is entirely proportionate that persons who seek to deceive the UK authorities are denied entry to the UK. Whilst minors cannot be held responsible for the actions of their parents, the minors in this case will remain living with their mother. Because of the false documents it has not been established that they are Kuwaiti Bidoons. They have been separated from their father for some time and refusing entry clearance maintains the status quo.

37. I attach no weight to the fact that the Home Office granted the Sponsor indefinite leave to remain notwithstanding the concerns raised by the Entry Clearance Officer. I am entirely unsurprised that different Government bodies do not communicate with each other. In these type of cases perhaps they should. I echo the First-tier Tribunal Judge's comment that the Secretary of State may wish to look again at the Sponsors claim to be a Kuwaiti Bidoon.

### **Notice of Decision**

The First-tier Tribunal having made an error of law in its Decision and Reasons, it is set aside. I remake the decision and dismiss it on all grounds.

No anonymity direction is made.

Signed

Date 11th June 2018

Upper Tribunal Judge Martin