



Upper Tribunal  
(Immigration and Asylum Chamber)  
Appeal Number: PA/00507/2018

PA/00476/2018

THE IMMIGRATION ACTS

Heard at: Field House  
On: 15 May 2018

Decision and Reasons Promulgated  
On: 8 June 2018

Before

DEPUTY UPPER TRIBUNAL JUDGE MAILER

Between

MR N A A

MR M A A

(ANONYMITY DIRECTIONS MADE)

Appellants

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation

For the Appellant: Mr C Emezie, Roli Solicitors  
For the Respondent: Mr E Tufan, Senior Home Office Presenting Officer

DECISION AND REASONS

1. Unless and until a tribunal or court directs otherwise, the appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify them or any member of their family. This direction applies both to the appellant and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.
2. The appellants are brothers, born on 2 June 1992 and 21 December 1995. They appeal with permission against the decision of First-tier Tribunal Judge Isaacs promulgated on 22 February 2018 dismissing their asylum, humanitarian protection and human rights appeals.

3. She noted that the basis of the first appellant's claim related to his fear of being detained by members of Fatah were he to be returned to Lebanon, as he was previously a member of Fatah but absconded after refusing military orders to go and fight in Syria with other members of Fatah. The second appellant claimed asylum on the same basis [9].
4. In addition the first appellant claimed that earlier in his membership of Fatah, he attended the Ain-el-Hilweh refugee camp where he had been engaged in contact with an opposition group, known as Bilal Badr. He claimed that as a result he would be recognised by members of this opposition group who said they would kill him. Were he to return to Lebanon he feels that they would be able to track him down and carry out the threats [10].
5. Judge Isaacs referred to the respondent's reasons for refusal from [11-13].
6. She considered the evidence produced in separate bundles, including oral evidence from both appellants separately: The first appellant's bundle was ten pages long, containing a witness statement and some translated documents and background information on Fatah. The second appellant's bundle was nine pages long, containing his witness statements, some translated documents and some background information on Fatah.
7. Judge Isaacs noted at the outset of the hearing that Mr Emezie, who represented the appellants at the hearing, confirmed that the only issue was whether the appellants were credible in their accounts of the threats they both faced from Fatah and that the first appellant faced from the Bilal Badr group. There was no Article 8 claim [5].
8. She set out the submissions on behalf of the parties. She found that the first appellant's credibility was "undermined." She set out her reasons from [63-71]: In particular, he gave a very different account to his brother of what happened to them in France. He claimed in oral evidence for the first time that they had been arrested and refused asylum in France. His brother made no mention of this. It was not plausible that that they would have been arrested and detained at the airport in France and then be released having been refused asylum. Moreover, she did not find it credible that if the arrests had happened the second appellant would not have mentioned it as part of his account at some point [63].
9. There was also a conflict in their evidence about what they did during their time in France. The first appellant claimed that they lived in a Kurdish camp in the Dunkirk area while the second appellant claimed that they lived on the streets of Calais and then in the camp at Calais [64].
10. She also noted that they gave almost identical, 'and undoubtedly rehearsed' answers as to why they had not stayed in Venezuela or claimed asylum there while they had the opportunity. Both used the particular phrase: "in Venezuela, a person can be murdered for one bolivar." That suggested that they had colluded to provide an explanation other than the poor economic situation in Venezuela, which was why they chose to return to France [65].
11. She referred to the first appellant's evidence concerning the threat he claimed he faced from Bilal Badr which undermined his credibility: In his asylum interview and oral evidence, his account was very vague and lacked any detail. She found that it was not clear how he had been identified by face and name so that a threat could be passed onto him later. Nor

was it clear or plausible why the threat to kill him was not carried out at the time it was made [67].

12. Further, in his asylum interview the first appellant claimed that the threat was passed onto him by a colleague at the Safrah camp, having travelled through a grapevine of family and tribes. In his oral evidence however he said that he was personally threatened by Bilal Badr himself [68].
13. In his oral evidence he claimed for the first time that he had four friends who were also threatened and one was killed [69]. That finding has not been challenged.
14. The first appellant's explanation about his visa application undermined his credibility: He said that he had described himself on that application as "unemployed" because he was working for Fatah but for no money. That was in direct contrast to the evidence given by the second appellant that in fact during the military training process, recruits were paid at a higher rate than they were when they became full members [70].
15. She found from the history of the appellants as a whole, that they have had access to significant financial resources. The first appellant was able to make an application for a visa to come to the UK as a student which would have entailed the cost of flights, tuition fees and sufficient funds for his maintenance. Further, they were able to purchase flight tickets to Venezuela; they were also able to purchase return tickets one week later. It was only at the "tribunal" that it was claimed that their brother in law had helped pay for the tickets [71].
16. With regard to the second appellant, she found that his credibility was undermined: First, he had colluded with his brother to explain why they could not stay in Venezuela as referred to.
17. Secondly he was inconsistent on his ownership of a passport. In the bio data information he gave at his asylum interview he said that he had never had a passport and then later said that he had. In oral evidence he initially said that he had never had a passport but then said that he had lost it [74].
18. Thirdly, the explanation he gave in his oral evidence as to why he did not claim asylum in France was because he learned 'from everyone' at the Calais camp that there was no asylum in France. However, during his interview (Q52) when asked to explain why he did not claim asylum as soon as he came to France from Lebanon he said he was aware of this problem with asylum in France as he passed through on his way to Venezuela, which must have been some time before he ever arrived at the camp in Calais [75].
19. Fourthly, he also introduced new evidence at the hearing that he served as a security guard for high ranking guests, whereas in his AIR he said that his job was to guard offices and weapons [76].
20. Finally, he claimed to have virtually no fighting experience which makes it less plausible that he would be selected to go to Syria [77].
21. She had regard to both appellants' claims that there would be a risk on return because they had refused to serve in Syria for Fatah. She did not find that credible: The document they submitted with their orders is dated 30 October 2016 at the top and 20 October 2016 at

the bottom. The letter is a poor photocopy. The original was not produced. Nor was there supporting evidence from the appellants' father to establish the provenance of this document. She therefore afforded it no weight [79].

22. There were no witnesses who corroborate this part of their account even though this evidence was available to them. There was no evidence from their father establishing either his high ranking in Fatah; the order for them to fight in Syria, or his role in helping them escape from Lebanon. Nor was there any evidence from their brother in law that he helped to fund their escape [80].
23. There was also a conflict arising from the first appellant's evidence about his father. In his witness statement, which was underlined during submissions by Mr Emezie, he stated that he was under pressure from his father to fight at camp Ain el-Hilweh because of his father's high ranking position. However, his father was the person who facilitated their escape to avoid fighting for Fatah in Syria. There appeared to be at least some conflict in these two narratives.
24. Nor was it clear what the father's current position was with Fatah. The appellants stated that he was not under threat himself because he was old. Yet, at the same time, they said because he was still a high ranking person who was still part of Fatah, he was able to obtain documents for them from Fatah in support of their asylum claim [81].
25. Further, she stated that there was a conflict in their evidence about Fatah's methodology in paying its recruits. As already noted, the first appellant claimed that he was not paid during the training period whereas the second appellant gave detailed evidence as to how much a recruit would be paid during training and thereafter [82]. She noted that when the first appellant gave his evidence, the second appellant remained outside the Court. [15]
26. Finally, she stated that all the documents relating to the membership of Fatah and the order to fight in Syria were obtained since arrival in the UK. The first appellant stated that the documents were obtained from their father and delivered to the UK by their uncle. However, she had no statement nor letter from either their father or the uncle setting out any of these details. It was not clear to her why the appellants' uncle could not have attended the Tribunal or at least written a letter confirming that he had brought documents over from Lebanon [83].
27. She found, after looking at the evidence in the round, and considering both their accounts, that they were not being truthful about the threat they face because of their refusal to fight in Syria on behalf of Fatah. She did not believe that they were given any such orders, nor is that the reason they left Lebanon. She concluded that they therefore did not face a real risk of persecution were they to return to Lebanon, whether as members of Fatah or not.
28. Nor did she believe the first appellant's claim relating the threats that he had received from Bilal Badr because of the inconsistencies and implausibility set out. She found it significant, albeit not determinative, that they made no attempt to claim asylum or stay in Venezuela, because the economic situation there is not as favourable as the UK. She believed that they are both economic migrants who intended to travel to the UK to settle here with their uncle [84].

29. On 21 March 2018 First-tier Tribunal Judge Shimmin granted the appellants permission to appeal. He stated that it is arguable that the Judge failed to give the appeal anxious scrutiny, to set out the agreed facts correctly and give full reasons as to why the appellants' accounts were rejected. It is also arguable that the Judge erred in finding that the respondent accepted that the second appellant came from the Palestinian occupied territories, which the appellant has never claimed.

### Submissions

30. Mr Emezie adopted the grounds seeking permission. He contended that the findings and conclusions were based on facts which the Judge 'speculated upon' and which lacked an evidential basis. She failed to give the claim the most anxious scrutiny. The determination should set out with clarity the facts which are determinative of the appeal, why the appellant's oral and documentary evidence had been rejected, and the reasons for coming to the conclusion reached.
31. The Judge also made an error of law in concluding at [13] that the respondent accepted that the second appellant came from the Palestinian Occupied Territories. However, under no circumstances did the appellant state that he was from there. Both he and his brother were born in Lebanon to a Palestinian father. "...By taking this false assumption the Judge could not have reached the decision as all his (sic) conclusions are based on the fact that he (sic) believed that he is from the Palestinian occupied territories".
32. Mr Emezie further submitted that it is not clear what her findings are. The Judge speculated on everything. This included her "suggestion" at [65] that they had at some point colluded to provide an explanation other than the poor economic situation in Venezuela, why they chose to return to France.
33. Further, the inconsistencies on his ownership of a passport, relied on at [74] had no bearing on why he fled. The Judge simply speculated on everything including Fatah.
34. Mr Emezie submitted that contrary to her finding at [77], 'you do not need fighting experience before being selected to go to Syria'. He noted that the first appellant answered 200 questions at the interview.
35. His overriding submission is that the Judge relied on discrepancies which did not undermine the case.
36. Mr Tufan on behalf of the respondent submitted that the Judge cannot be criticised when the only issue related to the credibility of the appellants' accounts regarding the threats that both faced from Fatah and the first appellant from Bilal Badr. That was confirmed at the hearing by their representative at [5].
37. Nor was there any lapse in clarity regarding the basis for her findings. The Judge directed herself appropriately.
38. With regard to the contention that the Judge was wrong to state that the respondent had accepted that the second appellant was from the Palestinian Territories, he submitted that it is factually correct: at paragraph 24 of the reasons for refusal the respondent stated that taking it together with all the other available evidence, it is accepted that he comes from

the Occupied Palestinian territories. Further, at paragraph 11 of the reasons for refusal the appellant himself claimed that he was originally from Palestine.

39. He submitted that it is clear from the totality of the Judge's assessment that the risk on return to Lebanon was the crucial issue as noted at [84].
40. He submitted that there has in fact been no challenge to any of the credibility findings in particular with regard to the second appellant, which depend on his being from the Occupied Palestinian Territories. The findings are based on his own narrative and evidence.
41. He submitted that having regard to the determination as a whole, it is clear why the appellants lost.
42. Mr Tufan referred to the Upper Tribunal's decision in MK (duty to give reasons) Pakistan [2013] UKUT 00641.
43. In reply, Mr Emezic contended that it is not clear why the appeal was dismissed. The decision is "riddled with errors". There was not a rational basis for rejecting their accounts.

#### Assessment

44. Mr Emezic contended that the Judge failed to give anxious scrutiny to the respective asylum claims and further, that the decision is 'riddled with errors'. Apart from assertion however, there has been no attempt however to substantiate that robust submission.
45. Having regard to the nature of the submissions, I have set out the decision and assessment of the First-tier Tribunal Judge in some detail. I have also had regard to the decision in MK.
46. At the outset of the hearing before Judge Isaacs, it was confirmed that the only issue was whether the appellants were credible in their accounts of the threats that they both faced, which meant that they faced a risk of harm or even death if they returned to Lebanon.
47. It is contended in particular that the Judge made a 'serious error of law' in concluding at [13] that the respondent accepted that the second appellant came from the Occupied Palestinian Territories. As already noted, at paragraph 24 of the reasons for refusal the respondent stated that taking it together with all the other available evidence, it is accepted that he comes from the Occupied Palestinian territories. Further, at paragraph 11 of the reasons for refusal the appellant himself claimed that he was originally from Palestine.
48. I find that the Judge has considered the respective claims of the appellants in detail. She has also had regard to the submissions made on behalf of the appellants. She has given detailed reasons for not believing their accounts. There has been no specific challenge to those findings in the grounds seeking permission. There was simply the generic assertion that the Judge did not give anxious scrutiny to their claims.
49. The contention in the grounds is that the appellants were born in Lebanon to a Palestinian father. The second appellant did not state that he was from the Palestinian Occupied Territories. It is therefore contended that this constitutes a false assumption which affected the findings.
50. However, the findings made by the Judge did not in any event depend upon where the appellants came from. Her focus related to threats they faced because of their refusal to

fight in Syria on behalf of Fatah. She rejected those assertions as being untrue. Further, this was not the reason they left Lebanon.

51. She concluded, having considered the evidence as a whole, that they would not face a real risk of persecution were they to return to Lebanon. With regard to the first appellant, she rejected his account of threats he had received from Bilal Badr on account of the inconsistencies that she set out.
52. The Judge has set out the material facts correctly and has given sustainable reasons why their respective accounts were rejected.

### Notice of Decision

The decision of the First-tier Tribunal did not involve the making of an error on a point of law. The decision shall accordingly stand.

Anonymity directions continued.

Signed

Dated: 7 June 2018

Deputy Upper Tribunal Judge Mailer