



**Upper Tribunal
(Immigration and Asylum Chamber)
PA/03666/2018**

Appeal Number:

THE IMMIGRATION ACTS

Heard at Manchester CJC

On 24th September 2018

**Decision & Reasons
Promulgated**

On 18th October 2018

Before

UPPER TRIBUNAL JUDGE LANE

Between

**SUHAIL NAJEM ABED ABED
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Holmes, instructed by Citizens Advice Bureau (Bolton)
For the Respondent: Mr Tan, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant, Suhail Najem Abed Abed, was born on 25 September 1977 and is a male citizen of Iraq. He claims to have arrived in the United Kingdom in September 2017 when he claimed asylum. On 2 March 2018, a decision was made by the Secretary of State to refuse to grant him international protection. The appellant appealed to the First-tier Tribunal (Judge J Austin) which, in a decision which is dated 13 May 2018, dismissed the appeal. The appellant now appeals, with permission, to the Upper Tribunal.
2. There are two grounds of appeal. I shall deal with the second ground first for reasons which I trust will become clear. To a large extent, the

appellant's appeal turned on his credibility as a witness. The appellant claims to have been a member of the Ba'ath Party in Iraq under Saddam Hussein. The appellant claims that he will be prosecuted and/or killed or injured if returned to Iraq on account of his party membership. The appellant claims that he was forced to join the Ba'ath Party in 2003. In the same year he had been dismissed from his post at the University of Basra because he was a party member. Judge Austin records [29] the appellant having said in evidence that, "the militia had a list of party members and killed everyone on the list in July 2003. The appellant escaped to Jordan for two weeks and then came back to face the problem and say it was not his fault. In 2009 he changed his surname in order to protect himself and in the same year he thought to emigrate but remained in Iraq". The appellant had first travelled to the United Kingdom in December 2012 to accompany his wife who was studying for a doctorate in this country.

3. The appeal before the Upper Tribunal focused upon [77] of Judge Austin's decision which reads:

The appellant's own account is that his particular risk arises as a result of his association with the Ba'ath Party at the University of Basra. He gives an account of former colleagues being targeted and killed as a result of their involvement with the Ba'ath Party. He has produced documents which he suggests show his name alongside the name of others who have been targeted. I place little weight on these documents. Originals have not been produced of them, but more particularly I am concerned that the point raised in regard to the appellant's change of name which he suggests was done in order to protect himself because he was on a list, a list which was then used for targeting persons for violence rather than for exclusion is a process of deeper application. The evidence is that the appellant was travelling freely as early as 2010 and the evidence in regard to his change of name is not consistent with his account as to why and when he did so. He appears to have changed his name several years before according to the evidence submitted with the claim. Further, his explanation for failing to mention that he had used a different name before undermines his credibility as I do not accept he was being asked about passport names but whether he was or had been known by a different name. The fact that he claims to have changed his name for a protection reason would have been uppermost in his mind, if it were true.

4. Mr Holmes, who appeared for the appellant, submitted that the appellant had not "failed to mention" change of name. Indeed, at the hearing before Judge Austin, cross-examination on this point had been terminated by the judge at counsel's request because the Visa Application Form which had been the subject of the questions had not required the appellant to provide details of any previous names. Mr Holmes submitted there was no inconsistency in the names given by the appellant in his screening and asylum interviews. Secondly, Mr Holmes submits that it is not clear why the judge considered that the change of name was "not consistent" with other parts of the appellant's account.
5. Responding to those submissions, Mr Tan, for the Secretary of State, acknowledged that the appellant had said in various parts of his evidence that he had changed his name in order to protect himself in or around

2009/2010. However, the birth certificate of his child (D16 - respondent's bundle) shows the name "Suhail Najem Abed". The document appears to be dated April 2008. The appellant's graduation certificate (D22) again shows the name "Suhail Najem Abed" and is dated September 2007.

6. Mr Tan submitted that the fact that the changed name appears on documents prior to the date (2009/10) when the appellant said he changed his name supports what Judge Austin says at [77]. It would have been helpful if Judge Austin had explained in greater detail why he considered the change "not consistent with the account" but I find that I agree with Mr Tan; the evidence which I have detailed above does support the judge's observation. Mr Holmes submitted that the new name of the appellant was Suhail Najem Abed Abed (as it now appears in these proceedings). He submitted that that the change (the addition of an extra "Abed") only occurred in 2009/10 and the appellant's account is internally consistent. He referred to the appellant's driving licence which shows the "double" Abed. I do not agree with that submission. It is clear to me that the judge had in mind the substantive change of name from "Abed al Radhi" to a name which removed the word "al Radhi". The appellant's account only makes sense if the change he refers to is that change rather than the addition of an additional "Abed". In other words, the only substantive change of name was the removal of the words "al Radhi". I am satisfied that the judge was right to find that that change as evidenced by the documents occurred before the appellant said that he changed the name. It was open to the judge to conclude that the evidence was not consistent.
7. As regards the appellant's "failure to mention" his change of name, I refer to the last sentence of [77]. The point made by the judge is that the change of name is an important part of the appellant's account of his difficulties in Iraq. It was open to the judge to attach weight to the appellant's failure to mention his change of name as part of his account.
8. The first ground of appeal also challenges the decision at [77]. Mr Holmes submitted that the judge appeared to have placed "little weight on these documents" because "originals have not been produced of them". Mr Holmes submitted that the appellant had not been asked to produce the originals; indeed, he had some original documents (for example his driving licence) with him at court before Judge Austin. Whilst that may be true, I am not satisfied that, even if the judge has erred in criticising the appellant for not producing original documents which he possessed, his decision is materially flawed in consequence. It is for the appellant to present his case to the Tribunal; if the appellant has original documents with him, then he should voluntarily produce these to the Tribunal. It is not for the judge to have to ask for original documents and if they are not produced then it is reasonable for the judge to assume that the originals are not in the appellant's possession. Secondly, it is clear on any reading of the judge's decision that the failure of the appellant to produce original documents was very much a minor part of the judge's analysis of the evidence. "Most significant" as described by the judge is what he says at [78]. The judge considered the appellant's account undermined by the

fact that the appellant's wife returned promptly to resume her employment at the university where he claims "the most significant risk against him exists". The judge considered that those who wish to harm the appellant would know that his wife was employed at the university and that they would easily have found out where he lived if they wished to target him. As the judge says, "this issue is about whether [the appellant's] whereabouts could be known to those who mean to harm him as he claims. I consider he was aware that his relationship with his wife, who he admits works at the university, indicated that his account did not stand up to close examination and this is why he was avoiding or seeking to avoid answering the question".

9. I find that it was open to the judge to find that the appellant, if he had been a member of the Ba'ath Party, did not occupy any position of authority within that party and had not, as he claims, been targeted because he had been a member of the Ba'ath Party. I find that the judge was fully justified in what he says at [79]

If the appellant was a member of the Ba'ath Party, and I accept that membership was widespread and was the norm, I do not consider in his personal circumstances that he is at risk. He does not claim to have held a high position and states that his involvement was in regard to organising cultural activities and talks. On the basis of the guidance referred to in the respondent's reasons for refusal letter and taking the individual appellant's circumstances into account I do not consider that he is particularly at risk as a result of his possible former membership of the Ba'ath Party which on the evidence before me I am not prepared to accept has been shown.

10. I find that neither of the grounds of appeal are persuasive. They do not undermine the sound reasoning of the judge who, on the evidence, reached findings which were available to him. Having reached sound findings on the appellant's account of past events and the profile which he would have on return to Iraq, I find that the judge has accurately concluded that the appellant would not be at real risk on return. Accordingly, the appeal is dismissed.

Notice of Decision

11. This appeal is dismissed.
12. No anonymity direction is made.

Signed

Date 1 October 2018

Upper Tribunal Judge Lane

TO THE RESPONDENT FEE AWARD

I have dismissed the appeal and therefore there can be no fee award.

Signed

Date 1 October 2018

Upper Tribunal Judge Lane