



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

Appeal Number: AA/09541/2014

**THE IMMIGRATION ACTS**

**Heard at Glasgow  
On 26 October 2015**

**Decision and Reasons  
Promulgated  
On 30 October 2015**

**Before**

**UPPER TRIBUNAL JUDGE MACLEMAN**

**Between**

**HOCINE MOHAMED ZINEDINE BELGROUNE**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

Representation:

For the Appellant: Mr K H Forrest, Advocate, instructed by McGlashan  
MacKay, Solicitors

For the Respondent: Miss S Aitken, Senior Home Office Presenting Officer

**DETERMINATION AND REASONS**

1. The appellant is a citizen of Algeria, born on 30 September 2014. He sought asylum on the basis of an arrest warrant issued after he was discovered to be homosexual; fear of the family of the boyfriend of his identical twin, who is also homosexual; fear of society in general; and fear of Islamic terrorists.

2. The respondent refused the claim by letter dated 30 September 2014. The respondent:
  - did not accept the appellant's account of events (paragraphs 5-16);
  - left the appellant's claim to be homosexual in the balance (paragraph 17-20);
  - gave little weight to the arrest warrant, in context, and for lack of explanation how his family living 1800 kilometres away could have heard about it or received it, and how it came to be in the appellant's possession (paragraphs 21-23);
  - accepted that homosexuality is penalised in Algeria, but relied on country guidance that prosecutions are extremely rare, and found that "as a general matter, societal and familial disapproval of male gay identity does not reach the required thresholds"; and
  - held that even if the account were taken at highest, the appellant has the option of relocating to another area of Algeria (paragraphs 30 and 31).
3. First-tier Tribunal Judge Balloch was not satisfied that the appellant had made out his case to the lower standard of proof, and dismissed his appeal by determination promulgated on 27 May 2015.
4. The grounds of appeal to the Upper Tribunal are on these lines. The judge rejected the respondent's submission that credibility was adversely affected by the appellant not having submitted a claim based on his sexuality until a relatively late stage. The judge did not find it inherently implausible that he would not have mentioned it earlier. Dealing with the summons [or warrant] and an expert report thereon, the grounds point out that the expert at paragraph 4.30 of his report found "no reason to conclude that the summons is not genuine". However, at paragraphs 98 to 101 "the judge concludes that because a line in [the summons] is incomplete, it should be disregarded". Having accorded weight to the report of the expert, it was not rational and was an error in law to effectively dismiss the summons and report on no more than a technicality. Having regard to the standard of proof in asylum cases and the duty to examine documents with anxious scrutiny, the judge's decision was not one open to her.
5. In submissions, Mr Forrest accepted that the judge made other adverse observations on credibility, apart from the question of the summons.
6. The appellant's criticism focuses on paragraph 97 of the determination:
  - "... I give weight to ... the expert report regarding the summons. It does not however refer to what appears to be a gap in the summons. According to the translation, on the first line ... the name is requested and is stated, on the second line the address is requested and is stated. On the third line it states: "Holder of:" and there is then what appears to be a blank space followed by "number:" and what appears

to be a blank space. This line of the summons does not appear to have been completed. The summons then goes on to set out the charge, the law and the date to appear in court.

98. It does seem ... that the summons is not entirely complete in detail. The incomplete line appears to refer to a document, possibly a passport or identity card. It does not appear to be just a matter of translation as the blank spaces are evident on the Arabic document. It would have been of assistance if this had been commented on."

7. Mr Forrest said that this issue was no more than a technicality. Although there was an apparent omission, it could be safely assumed that if the omission implied any possible problem with the document, the expert would have commented. Absence of comment signified that there was no issue. The effect on the determination was material. This was an error which might have made a difference to the outcome. The determination should be set aside, and the case remitted to the First-tier Tribunal.
8. In a Rule 24 response the respondent argues that it was open to the judge to give weight to the expert report, but the fact was that the summons had information missing from it, which detracted from its credibility, and the finding was open to her. It was to be taken into account in the round with all the other negative credibility aspects.
9. Ms Aitken submitted further as follows. The omission in the document may have been technical, but that was only one point against the appellant. The judge properly considered the summons in the round and in context of all the other evidence. She gave numerous reasons for declining to accept the appellant as a credible witness, in particular at paragraphs 93-101. Her decision was not based simply on information missing from the summons. It was not accepted the judge made any error, but if she did, it was unimportant.
10. Mr Forrest in reply accepted that the determination does give other reasons, but submitted that the genuineness of the summons was nevertheless material.
11. I reserved my determination.
12. I accept that it was a central issue in the appeal whether the summons was a genuine and reliable document.
13. Although in the Rule 24 response and in submissions the respondent accepted that the omission in the summons was part of the reasoning for dismissing the appeal, I am not persuaded that the judge went that far. The judge quotes from the expert report and gives it weight. She examines the matter carefully and thoroughly. She notes the omission for herself, and accurately. All she then says is that it would have been of assistance if this had been commented on. I do not think this feature had even a minimal impact on the decision. It was not close to decisive. It is

the only feature of the determination criticised in the grounds. This is no more than a minor and partial point of disagreement.

14. The judge's essential reasons for declining to accept the evidence as credible have very little (I think nothing) to do with the omission on the face of the document. Some points are resolved largely in favour of the appellant, for example, at paragraphs 89 and 93. The adverse points mentioned include the non-emergence of the claim in response to obvious questions at an early stage; absence of a reasonable explanation why the appellant came initially for a short stay, and did not return with his father; the unlikelihood of the appellant simply staying in Glasgow indefinitely in hope of encountering his brother, and without status; a sudden plan (rapidly abandoned) to marry and to regularise his status on that basis; no clear explanation of how the copy summons was obtained; and absence of information on consequences of failure to attend court and subsequent events, matters which the appellant would have tried to explore if he believed that he was at real risk, or that his partner in Algeria had been arrested. None of these reasons has been subjected to any criticism. The one point which has been extracted is very particular, and does not amount to much. I am not persuaded that any error has been shown, and in any event I do not find that even at highest this is an error which might entitle the Upper Tribunal to set aside the determination.
15. The determination of the First-tier Tribunal shall stand.
16. No anonymity order has been requested or made.



Upper Tribunal Judge Macleman  
29 October 2015