



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

Appeal Number: PA/03351/2016

THE IMMIGRATION ACTS

Heard at Manchester

Decision & Reasons

On 25 September 2017

**Promulgated
On 3 October 2017**

Before

Deputy Upper Tribunal Judge Pickup

Between

**Mohammed Rahayef Alanizy
[No anonymity direction made]**

Appellant

and

Secretary of State for the Home Department

Respondent

Representation:

For the appellant: Ms H Naz, instructed by Fountain Solicitors

For the respondent: Ms Z Ahmad, Senior Home Office Presenting Officer

DECISION AND REASONS

1. This is the appellant's appeal against the decision of First-tier Tribunal Judge Herwald promulgated 13.1.17, dismissing on all grounds his appeal against the decision of the Secretary of State, dated 20.3.16, to refuse his protection claim.
2. First-tier Tribunal Judge Pullig refused permission to appeal on 24.4.17. However, when the application was renewed to the Upper Tribunal, Upper Tribunal Judge Rimmington granted permission to appeal on 1.6.17.

3. Thus the matter came before me on 25.9.17 as an appeal in the Upper Tribunal.

Error of Law

4. For the reasons summarised below, I found no error of law in the making of the decision of the First-tier Tribunal such as to require the decision to be set aside.
5. In granting permission to appeal, Judge Rimmington found it arguable that the First-tier Tribunal Judge failed to:
 - (a) adequately address the issues raised in the skeleton argument;
 - (b) reflect in the findings the background information in COIR 19.24 & CIG 2.3.7, and apply NM (documentation/undocumented Bidoon: risk) Kuwait CG [2013] UKUT 003656, relating to obtaining documentation;
 - (c) Made factual errors relating to the appellant's attempt to secure documentation relating to his age; and
 - (d) Failed to address adequately the evidence of the brother, recognised as an undocumented Bidoon.
6. For the appellant, Ms Naz simply relied on the grounds and made no oral submissions at the appeal hearing, except in response to those of Ms Ahmad. I refused permission for Ms Naz to raise without advance notice further grounds not relied on in the submitted grounds of appeal.
7. It is not necessary for a judge to refer to each and every piece of evidence relied on by an appellant, provided it is clear from the decision that the judge had considered the background material and the evidence as a whole. That is evident from a reading of the decision as a whole, particularly [5], [12] and [13] of the decision.
8. There was an error at [13(d)] as to the age of the appellant at a time when the Bidoon had a further opportunity to obtain documentation in 1996, he was not 17 or 18, but only 8. However, the mistake is not material to the outcome of the appeal.
9. [7] of the grounds purports that the judge's statement at [13(k)] that one of the two brothers, the appellant and his brother who has previously been accepted as an undocumented Bidoon, is lying, must logically mean that the other is telling the truth. This is a misconceived argument of rationality. It may have been better if the judge had said that either or both of them are lying, when pointing out significant inconsistencies in their respective accounts. However, the conclusion of the judge, who was satisfied that the appellant was not telling the truth, was open to him on the reasoning pointing out the inconsistencies in account. Ms Naz sought to put an interpretation on the oral evidence of the brother, suggesting that he was not saying that the appellant had been arrested at the house,

but it was clearly open to judge to conclude that the brother had said the appellant had been arrested at the house, particularly when the apparent inconsistency was put to the brother by the presenting officer, the appellant having said that he had been arrested at the demonstration. The judge detailed clear reasons why he concluded there was an inconsistency and that the appellant was lying. It is clear from the decision that the judge did take into account the evidence of the brother, but notwithstanding his accepted status reached a different conclusion in relation to the appellant.

10. In a related vein, Ms Naz sought to argue that if one brother has been accepted as an undocumented Bidoon, it must follow that the other is also an undocumented Bidoon. That is an attempt to reargue the appeal, and I do not accept the premise as being well-founded. It might be supportive evidence, but the First-tier Tribunal Judge has to assess the evidence as a whole and it is possible for a judge to reach a different but justifiable conclusion to another judge or an officer of the Secretary of State as to a different person. If Ms Naz's argument is correct, then there would be no purpose in having a hearing at all, as in falling domino fashion, one undocumented Bidoon would lead to another. I reject this argument.
11. Several of the grounds of appeal are no more than disagreements with the findings of the First-tier Tribunal Judge. For example, it is suggested that at [13(l)] the judge confused date of disappearing and date of leaving Kuwait. The analysis of the inconsistencies set out at that part of the decision was open to the judge, including the findings that there was an inconsistency between the appellant's account and his brother. From [13(m)] it is clear that the judge was fully aware of the appellant's claim to have been in hiding for a year and five months before leaving Kuwait.
12. [10] of the grounds is again a mere disagreement, but one involving speculation as to why the appellant's knowledge of others arrested might be limited. The findings and reasons at [13(j)] were fully open to the judge.
13. It was also open to the judge to conclude that the ability of the appellant to leave Kuwait from the airport undermined his claim to be wanted by the authorities. The finding remains open, even on the basis of the background evidence that there is no fingerprinting at the airport.
14. Ground [29] falls away once the judge has concluded that the appellant is not an undocumented Bidoon.
15. In the circumstances, the grounds fail to establish any material error of law in the decision of the First-tier Tribunal.

Conclusion & Decision

16. The making of the decision of the First-tier Tribunal did not involve the making of an error on a point of law such that the decision should be set aside.

I do not set aside the decision.

The decision of the First-tier Tribunal stands and the appeal remains dismissed on all grounds.



Signed

Deputy Upper Tribunal Judge Pickup

Dated

Anonymity

I have considered whether any parties require the protection of any anonymity direction. No submissions were made on the issue. The First-tier Tribunal did not make an order pursuant to rule 13(1) of the Tribunal Procedure Rules 2014.

Given the circumstances, I make no anonymity order.

Fee Award

Note: this is not part of the determination.

In the light of my decision, I have considered whether to make a fee award pursuant to section 12(4)(a) of the Tribunals, Courts and Enforcement Act 2007.

I have had regard to the Joint Presidential Guidance Note: Fee Awards in Immigration Appeals (December 2011).

I make a no fee award.

Reasons: No fee is payable.



Signed

Deputy Upper Tribunal Judge Pickup

Dated