



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

Appeal Number: DC/00025/2017

THE IMMIGRATION ACTS

Heard at Newport

On 9 November 2018

**Decision & Reasons
Promulgated**

On 12 December 2018

Before

**MR C M G OCKELTON, VICE PRESIDENT
UPPER TRIBUNAL JUDGE GRUBB**

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

KILUMU [M]

Respondent

Representation:

For the Appellant: Mr C. Howells, Senior Home Office Presenting Officer.

For the Respondent: Ms S. Alban, instructed by Fountain Solicitors.

DETERMINATION AND REASONS

1. The respondent, whom we shall call “the claimant”, is a British citizen who appealed to the First-tier Tribunal against a notice by the Secretary of State dated 1 September 2017 that a decision had been made to deprive him of his citizenship. He appealed against that decision and Judge Coaster allowed the appeal. The Secretary of State now appeals, with permission, to this Tribunal.
2. The claimant came to the United Kingdom in 2002. Following the refusal of asylum, he and his family were granted leave to remain under the

Legacy Scheme. In July 2013 he submitted an application for British citizenship based on his length of residence in the United Kingdom. This was granted on 9 April 2014. At some later stage the Secretary of State became aware that an application for the removal of a time limit from a passport (“the NTL application”) had been made by another person, using the claimant’s documents, in 2006. The Secretary of State took the view that the claimant’s complicity in that process was something that ought to have been declared in the claimant’s application for nationality; and that “by failing to declare the fraudulent NTL application you knowingly deceived the Home Office by concealing a material fact.”

3. Judge Coaster considered the evidence relating to the NTL application in great detail. She took into account the oral evidence of the claimant, which she accepted, and the documents produced. She concluded that “the appellant has satisfied the standard of proof that he did not make the application for the false NTL application and did not know that it was made until he was informed of the rejection of the NTL application”. The inevitable conclusion was that he did not deceive the Home Office by failing to mention it. The judge went on to make reference to certain paragraphs of the Secretary of State’s published guidance on the Deprivation of Citizenship: the paragraphs to which she refers relate to deprivation on the grounds of public interest. Having considered those factors and the conclusion she had reached that the claimant had no part in the use of his name in documents in the NTL application, she allowed the appeal.
4. The Secretary of State’s grounds of appeal draw attention first to the fact that the judge quoted the wrong part of guidance, because in the claimant’s case the proposal to deprive him of citizenship was based not on the public interest but on his deception. The grounds go on to say that the crucial question on the application form for citizenship was that numbered 3.11:

“Have you engaged in any other activities which might be relevant to the question of whether you are a person of good character?”
5. That, in the Secretary of State’s view, and as Mr Howells submitted to us, was the one which the claimant had answered falsely, because he had said that there were no other such activities, whereas he should have referred to the NTL application.
6. We did not need to call upon Ms Alban. The decision of the First-tier Tribunal is perfectly clearly to the effect that there was no such “activity” that the claimant had engaged in: there was therefore nothing that the claimant should have mentioned. It follows that his answer to question 3.11 was in no sense deceptive. There is accordingly no merit in the Secretary of State’s grounds. We dismiss the appeal to this Tribunal. The decision of Judge Coaster stands as the determination of the claimant’s appeal.

C. M. G. OCKELTON

VICE PRESIDENT OF THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER
Date: 5 December 2018.