



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

Appeal Number: PA/04687/2017

THE IMMIGRATION ACTS

Heard at Birmingham

**On 22 February 2018
Prepared 22 February 2018**

**Decision & Reasons
Promulgated
On 26 April 2018**

Before

DEPUTY UPPER TRIBUNAL JUDGE DAVEY

Between

[M H]

~~(ANONYMITY DIRECTION NOT MADE)~~

and

Appellant

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Miss H Masih, Counsel instructed by Parker Rhodes
Hickmotts Solicitors

For the Respondent: Mrs H Aboni, Senior Presenting Officer

DECISION AND REASONS

1. The Appellant, whose nationality is a matter of dispute, date of birth [] 1984, claims to be a national of the Arab Republic of Syria, appealed against the Secretary of State's decision, dated 5 May 2017, to refuse recognition as a refugee and to refuse a Humanitarian Protection claim. The appeal against that decision came before First-tier Tribunal Judge

Parkes (the Judge) who, in a decision dated 7 November 2017, dismissed the Appellant's appeal. Permission to appeal that decision was given on 15 December 2017 by First-tier Tribunal Judge Scott-Baker (ARJ).

2. The Respondent made a Rule 24 response on 10 January 2018, which in short said that the Judge had properly considered the issues and arrived at a sustainable conclusion so that there was no arguable error of law.
3. Miss Masih's first major ground of attack is that the Appellant had put forward an expert report by Professor Yaron Matras, dated 19 October 2017, which the Judge had failed to properly address, bearing in mind a competing and differing report by 'Verified'. The basis of the Judge preferring the report of Verified was simply that the report showed it had been considered by a number of people, three in total. The report does not make clear the extent to which those who did the work on the case for Verified had the necessary linguistic skills and experience to be able to make the correct assessment of the evidence.
4. Professor Matras set out his own assessment but, as I have been taken to it, set out a number of cogent criticisms of the assessment and the influences upon the assessment that Verified had made. Those were severally identified in Professor Matras's report at paragraphs 3, 4, 5.1, 6.1, 6.2, 6.3, 6.4 and in the conclusions at paragraph 7 of the report.
5. It is most unfortunate but the Judge simply failed to address those criticisms which undoubtedly bear on the assessment of the Appellant's speech and the analysis of the root of that speech, both in terms of whether or not she was of the area claimed but more importantly the potential influence on the Appellant being brought up by a mother whose own speech could well have affected the general profile of the Appellant's own speech. It is unnecessary to descend into the particulars of the explanation of this, since it is clearly a matter of some complexity, but quite simply the Judge did not address that evidence. It seemed to me

reading the report it showed clear points of difference which must be relevant to the overall assessment carried out by Verified.

6. As Professor Matras also pointed out, there is no indication that the Verified report's main author has any knowledge of Kurdish and no indication that the analysts who had assisted in the overall exercise had any formal training in linguistic analysis. It may be that the professor's criticisms of their reference to 'standard Kurmanji' and general criticisms made that derive therefrom, simply demonstrate that Verified did not appreciate the potential differences that might arise, let alone the possibility that the Appellant might have been involved in using a 'transitional dialect'. On that ground alone, I am satisfied that the Original Tribunal's decision cannot stand because adequate and proper or sufficient reasons have not been given for the Judge's preference of that report.
7. Mrs Aboni made the general point that the issue was not the sole issue and there were other aspects of the Judge's findings and the Appellant's evidence which enabled him on an alternative or additional basis to stand by the reasons that he gave. Miss Masih pointed to the Appellant's statement and rebuttal of aspects raised by the Respondent against the Appellant's evidence. She essentially argued that the Judge has simply not addressed those matters sufficiently or adequately or given reasons which were enough to show that the adverse conclusions reached had a rational basis.
8. It seemed to me once again it is very difficult to tell whether the Judge's assessment of the other wider evidence was not influenced by the erroneous assessment expressed in the Verified report in preference of that to the report of Professor Matras. In those circumstances it did not seem to me that the Original Tribunal's decision could be correct in that assessment of the wider evidence as a basis to sustain the decision reached.

9. I find the Original Tribunal's decision cannot stand and the matter will have to be remade in its entirety.
10. I conclude that the appropriate course is for the matter to be remade in accordance with the law by the First-tier Tribunal and the matter will be listed there.

DIRECTIONS

1. List at Birmingham. Not before First-tier Tribunal Judge Parkes. List for two hours.
2. List for a telephone CMR, at which directions should be given as to the preparation of any further evidence, the attendance of any witnesses, their identity and nationality and other particulars necessary for the Respondent to make appropriate background checks.
3. An interpreter will be required in Kurdish Kurmanji.

ANONYMITY ORDER

No anonymity order is required or appropriate.

Signed

Date 20 March 2018

Deputy Upper Tribunal Judge Davey