



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

Appeal Numbers: PA/01500/2019
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THE IMMIGRATION ACTS

Heard at Manchester Civil Justice Centre

On 24th July 2019

Decision & Reasons

Promulgated

On 07th August 2019

Before

Upper Tribunal Judge Chalkley

Between

**BS
AD
MD**

(ANONYMITY DIRECTION MADE)

Appellants

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellants: Ms G Wylie, a solicitor with Latitude Law

For the Respondent: Mr A Tan, a Senior Home Office Presenting Officer

DECISION AND REASONS

1. The first appellant is a citizen of Lebanon born on 16th July 1978. The second and third appellants were born respectively on 5th August 2004 and 23rd November 2009. The second and third appellants are brother and

sister and are the children of the first appellant. In this determination I shall refer to the first appellant as being “the appellant”.

2. The appellant arrived in the United Kingdom on 16th September 2014 with entry clearance as a visitor. She was accompanied by her three children including ZD who was born on 19th October 2000 and who is now an adult and not, therefore, dependent on the appellant’s appeal.
3. The appellant originally claimed asylum on 18th September 2014, but that was refused by the respondent on 4th March 2015 and her appeal against that decision was dismissed on 14th July 2016 (reference AA/04814/2015). However, the appellant presented further submissions to the respondent on 18th October 2016 and again on 18th July 2017 which were refused with no further right of appeal on 20th October 2016 and 26th March 2018. Further submissions were then made on 3rd December 2018 which, although rejected, were accepted by the respondent as a fresh claim and form the basis of the subject matter of a appeal to the First Tier Tribunal. The respondent’s refusal letter was dated 23rd January 2017.
4. The appellant’s appeal was heard by First-tier Tribunal Judge Garratt sitting in Manchester. He found that the fresh evidence which form the subject of the appellant’s latest claim did not, for the reasons he set out in his determination, enable him to conclude that the appellant and her family were forced to leave Nigeria for the reasons she claimed. He dismissed the appellant’s appeals.
5. The appellant, dissatisfied with the outcome, sought and obtained permission to appeal to the Upper Tribunal.

The basis of the asylum claim

6. The appellant’s claim is that her husband, “J”, died in Nigeria on 18th February 2017 and documentation submitted to prove this event were considered by the respondent applying the guidance in *Tanveer Ahmed v Secretary of State for the Home Department** [2002] UKIAT 000349. The respondent did not accept that the appellant’s husband had died in the manner claimed, because of inconsistencies.
7. At the hearing before the First-tier Tribunal, the appellant relied on documents which had been the subject of experts’ reports. The appellant relied upon a police report from Nigeria, on a death certificate and on a declaration of family registry issued by the Lebanese authorities. The judge considered the experts’ reports in the round and concluded that the fresh evidence did not enable him to conclude that the appellant and her family had been forced to leave Nigeria, because of an attack or that the appellant’s husband had now died. He saw no reason to depart from cogently argued unfavourable findings of fact made previously by an earlier judge and concluded that if the appellant were returned to Lebanon with her children, who are dependants on her claim, she would not be a

lone woman who would be at risk of serious harm as claimed and as detailed in the expert report from Dr Joffe. The judge was not satisfied that the appellant would suffer harm and dismissed the asylum claim, he dismissed the humanitarian protection claim and also dismissed the appellant's human rights claims.

8. The grounds of application for permission to appeal asserted:-

- A failure by the judge to give sufficient weight to the expert evidence relied upon by the appellant to prove that the Nigerian police report, the death certificate of her husband and the family registration certificate were all genuine".
- At paragraph 40 of the determination the judge noted that Dr Amundsen had been supplied with a "diminished" copy of a document he examined, but that was, it was claimed, actually incorrect and it was claimed tainted the judge's consideration in relation to the expert's independence and unbiased opinion.
- The judge notes various "errors" in the police report and he considers the expert's conclusion that the document is genuine as "surprising".
- A Middle East and North African expert witness, Dr Fatah, examined the death certificate and the family registration documents and concluded that both were likely to be genuine.
- The judge erred by suggesting that Dr Fatah had examined the documents in copy form whereas in fact he examined the originals.
- The judge noted various discrepancies in relation to the documents, but Dr Fatah acknowledged these and nevertheless considered on balance that the documents hold the main characteristics of reliable similar documents issued by the Lebanese authorities.
- It was asserted that the judge had erred in law by failing to give sufficient weight to Dr Fatah's independence and unbiased expert opinion.

9. Ms Wylie expanded on her grounds and took me to various parts of the judge's determination where, she claimed, he had erred. The expert Dr Fatah had not relied on copy documents, as the judge had believed and Dr Amundsen had not examined a "diminished" copy of the report. For the respondent, Mr Tan suggested that the judge had not erred, but set out various anomalies in the police report. Whether the report examined by Dr Amundsen was a diminished report or not was not material, he suggested. The judge noted that the expert had found an anomaly in the police report, in that the telephone number in the report was not viable. The judge had considered the experts' reports in the round, along with other evidence as he was required to do. Dr Fatah himself noted an

anomaly in the family registration document, he noted that the appellant's husband's name had been crossed out with a red pen. That was described by Dr Fatah as being "an inherent weakness" of the document itself, nonetheless Dr Fatah concluded that the document held "the main characteristics of reliable, similar documents issued by the Lebanese authorities".

10. Mr Tan pointed out that the judge identified various anomalies, some of which were not commented upon by Dr Amundsen in his report at pages 32 and 33 of the determination. In closing, Ms Wylie asked me to set aside the determination and find it contained material errors of law. I reserved my determination.
11. I think it important that I set out below various extracts from the determination which, is quite detailed. I start with the judge's consideration of the documentation at paragraphs 39 to 44:-

- "39. As to the claimed attack in Nigeria, the appellant produced a police report with her further submissions of 26th March, 2018 which has now been the subject of analysis by Dr Inge Amundsen whose report commences on page 191 of the bundle. The report is dated 12th September, 2018 and so it was not written until after the respondent had rejected the submissions in this respect made on 26th March, 2018.
40. The police report (page 287 of the bundle) was only examined in PDF format by the expert and he has supplied a diminished copy of the document he examined. This is not as good a copy as that appearing on page 287. The diminished report copy does not clearly show the parallel lines running down the left hand side of the document or the narrower parallel lines running across the top. These lines are significant because I note that Dr Amundsen compared the appellant's copy with another Nigerian police document which, by implication, is thought to be authentic. However the authentic version does not have the parallel lines across the top. The appellant's copy bears a date of 27th July, 2014 which is not positioned properly in the space provided at the top of the document. Further, it is not clear why the document, if produced only about a week after the claimed attack, took so long to produce even though the appellant claims to have had it in Nigeria taking it with her to Lebanon. If she took it with her she clearly regarded it as important.
41. The police report appears to be addressed to an 'E.C. Ogoji' stated to be the administrative manager at 'SCN Societe de Compounage (Nig) Ltd'. This is certainly not the name of the appellant's husband who is referred to in the letter as '[redacted]'. There are also obvious grammatical and spelling errors in the letter including a statement that '[redacted] went into a corona ...'. Nevertheless, in that respect I accept that such errors might appear in a police report written at a local level. None of these matters have, however, been referred to by Dr Amundsen who has described the police report as 'most probably genuine'. I find this conclusion surprising not only because of the absence of reference to the matters to which I have referred but because Dr Amundsen made investigations which revealed the telephone number in the report is 'not verifiable'.
42. It is also unclear how the expert can reach the conclusion that the letter was issued by the stated police authority using 'proper official paper' when the copy police document attached to the report is clearly a photocopy and the 'original' document examined was in PDF format. Further, the document used by Dr Amundsen for comparison purposes is

not, actually, a police report but a press release drawn down from the internet. Its provenance as a reliable document is therefore suspect in any event.

43. In addition to my concerns about the quality and reliability of the expert report there are additional inconsistencies in its content which detract from its reliability at face value. The report states that the incident took place at about 23.00 hours when the appellant had earlier given evidence to say it took place at 'about 7.30'. The appellant had also stated that she was attacked when being driven in her car with her husband and children but the police report infers that the attack took place at the appellant's home. In her latest statement of 12th March, 2019 at paragraph 5 the appellant acknowledges but cannot explain why there are differences between the content of the report and her account of events in Nigeria.
 44. I have also noted that the appellant's oldest daughter [redacted] indicates in her statement that the attack took place in the family home which is similarly inconsistent with the content of the claimed police report. Despite the supporting evidence of the daughter, the inconsistencies in this report and the defects in the expert opinion lead me to conclude that the first judge was right to find that the attack did not take place.
 45. I now turn to consider the supporting evidence of the appellant's claim that her husband died in Nigeria as claimed on a date in February, 2017. The death certificate and a WhatsApp picture of the gravestone have been produced along with a family registration document".
12. At paragraphs 40 to 44 of the determination, the judge deals with the first expert's report and raises, as Mr Tan pointed out, anomalies which Dr Amundsen has not considered. It is not clear whether Dr Amundsen was aware of the statement of the appellant's oldest daughter ,or of the appellant's own statement as to the time and place of the incident, but given these anomalies, I concluded that the judge was entitled to find as he did. He has examined carefully the report but he was required to look at the evidence in the round. That with very great respect is what he did.
13. At paragraphs 45 to 47 of the determination, he deals with the death certificate and the family registration document. I set this out below:-
- "45. I now turn to consider the supporting evidence of the appellant's claim that her husband died in Nigeria as claimed on a date in February, 2017. The death certificate and a WhatsApp picture of the gravestone have been produced along with a family registration document.
 46. The death certificate along with the declaration of family registration has been the subject of a report by Dr Fatah. Whilst examining the family registration document in copy form Dr Fatah noted that the name of the appellant's husband [redacted] had been crossed out with a red line with a statement that he died on 18th February, 2017 in Lagos. Whilst the crossing out is according to an unnamed contact of Dr Fatah's in Lebanon, a customary practice he states, 'it is not possible to verify the strike through the strike through was made at the time of issue. This is an inherent weakness of the document itself'. Dr Fatah does not state in his conclusions that the document is genuine but that it 'holds the main characteristics of reliable, similar documents issued by the Lebanese authorities'. I am not satisfied that this expert report can assist me to conclude that the appellant has shown that her husband has actually died. In reaching this conclusion I also take into

consideration my further comments about the death certificate and a picture of the gravestone which follow.

47. Dr Fatah found some uncustomary features in the death certificate, chiefly the identification numbers on the document. He concludes that the document holds the main characteristics of reliable, similar documents issued by the Lebanese authorities. However, Dr Fatah is careful to state that no-one can confirm the authenticity of documents issued by the Lebanese authorities and other bodies beyond doubt. Significantly, there are other factors which have assisted me to conclude that the death certificate cannot be relied upon. The certificate is issued by the Lebanese General Consulate in Lagos, Nigeria. No Nigerian death certificate has been produced. The certificate itself states that it is based on a death certificate issued by the Nigerian local authorities. If the Lebanese authorities at the consulate inspected the Nigerian death certificate then I am surprised that the latter, or a copy, was not produced as first hand evidence of the death. In his report Dr Fatah gives no explanation of this unusual state of affairs but does observe, as I do, that the death certificate does not refer to a cause of death. This Dr Fatah comments is 'uncustomary'. The date of death given is 18th February, 2017 when the date of death on the gravestone as shown in the WhatsApp picture is 16th February, 2017. I would expect both pieces of evidence to be consistent on this point. The name on the death certificate is [redacted] but the name on translation on the gravestone is [redacted but different]. I would also have expected the official document to reflect the full name. The appellant has acknowledged the discrepancy in dates but has said that she cannot explain them".
14. Given what the experts have said and given also the judge's consideration of all the evidence, I believe that the judge was entitled to find as he did in paragraph 48 that he could not conclude that the appellant and her family were forced to leave Nigeria because of an attack, or that the appellant's husband had now died.
15. I asked Ms Wylie if she could explain why, as the judge points out at paragraph 47 of the determination, that the certificate is based on the original death certificate issued by the Nigerian local authorities the original death certificate has not been produced and she said that she could not explain. The family certificate was sent to her by a friend. The judge actually said at paragraph 48:-
 - "48. The fresh evidence which has formed the subject of the appellant's latest claim does not, for the reasons I have given, enable me to conclude, even to the lower standard of proof, that the appellant and her family were forced to leave Nigeria because of an attack or that the appellant's husband has now died. I bear in mind and accept that the first judge found that the appellant did not have a dispute with her in-laws in Lebanon over arranged marriages for her daughters. I can see no reason to depart from the cogently argued unfavourable credibility findings in the first judge's decision. This means that if the appellant is returned to Lebanon with her children who are dependants in her claim, she will not be a lone woman who would be at risk of serious harm as claimed and as detailed in the expert report of Dr Joffe. Whilst Dr Joffe concludes that the appellant's claims are consistent with the country situation that does not mean that the appellant should be believed when the significant inconsistencies in her evidence throughout do not show that she is at real risk".

16. I believe that the judge's treatment of the experts' reports was scrupulously fair and very thorough. He has, as Mr Tan pointed out, expressed surprise at the conclusion of Dr Amundsen, because of the anomalies that the judge himself has found and because the investigations made by the expert revealed that the police telephone number in the report was not verifiable. The appellant has not been able to offer any explanation as to why the date of death given in the documentation is 18th February 2017, whereas the picture of the gravestone shows the date of death being 16th February 2017. Dr Fatah himself identifies an inherent weakness in the death certificate, but given the judge's consideration of all the evidence in the round, I believe he was entitled to conclude as he did.
17. The grounds assert that the judge failed to give sufficient weight to the expert evidence. With very great respect, allegations that a judge fails to give "sufficient weight" or gives "too much weight" to a particular piece of evidence is nothing more than a simple disagreement. This judge did very carefully examine all the evidence and was entitled to conclude as he did. The judge **did not materially err in law** in the determination. **The appellant's appeals are dismissed.**
18. An anonymity direction is made.

Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008

Unless and until a Tribunal or court directs otherwise, the appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify her or any member of her family. This direction applies both to the appellant and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.

Richard Chalkley

Upper Tribunal Judge Chalkley

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

Richard Chalkley

Upper Tribunal Judge Chalkley

Dated 30 July 2019