



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

Appeal Number: PA/04136/2018

**THE IMMIGRATION ACTS**

**Heard at Bradford**

**On 26 February 2019**

**Decision & Reasons  
Promulgated  
On 04 March 2019**

**Before**

**UPPER TRIBUNAL JUDGE LANE**

**Between**

**HS  
(ANONYMITY DIRECTION MADE)**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: Ms Naz, Fountain Solicitors

For the Respondent: Mrs Pettersen, Senior Home Office Presenting Officer

**DECISION AND REASONS**

1. The appellant, HS, was born in 1979 claims to be an undocumented Bidoon from Kuwait. The appellant claims that he arrived in the United Kingdom in 2017 when he made a claim for asylum. By decision dated 28 February 2018, respondent refused his application. The appellant appealed to the First-tier Tribunal (Judge Arullendran) which, in a decision promulgated on 10 May 2018, dismissed the appeal. The appellant now appeals, with permission, to the Upper Tribunal.

2. First, the grounds of appeal assert that the judge wrongly refused an application for an adjournment of the hearing. Shortly before the hearing in the First-tier Tribunal, the appellant had changed his solicitors. The appellant claims that there were errors in the transcription of his asylum interview and he sought extra time to obtain the recording of that interview in order that he might be able to provide full particulars of the errors in translation. Ms Naz, who appeared for the appellant before the Upper Tribunal, told me that the recording had now been made available.
3. At [8], the judge records that the appellant's 'main complaint' with the transcription of the interview was the use of the word 'census' rather than 'committee'. The judge wrote that she 'advised the appellant that I would take into account all he has to say about the discrepancies in order to ensure a fair hearing. I also note that there is no dispute that the word committee should have been used by the interviewing officer, rather than census, and all parties are aware of this error.' The judge also recorded the application for an adjournment was not made 'particularly forcefully.' The judge also noted that 'Ms Naz accepted that the appellant had replied to all the matters he disagreed with in his interview and the refusal letter in the response statement ... She was unable to say what would be gained by the adjournment at this late stage.'
4. Having read the judge's decision carefully, I find that she has not erred in law. She considered the adjournment application carefully recording the submissions made and applying the relevant procedure rules [8]. She was aware that the principle of fairness was paramount and was careful to note the discrepancies between the transcription and what the appellant claims that he had said. It is puzzling that the appellant was aware of the problems regarding the transcription of the word 'census' but does not appear to have been aware of other mistranslations (see decision, at [55]). The judge was also fully entitled to take account of the fact that the appellant's representative was unable to tell her how an adjournment would fulfil the requirements of the overriding objective. Even now, after the recording has been made available to the appellant, details of alleged discrepancies have not been provided.
5. Secondly, the appellant complains that the judge failed to take account of his medical condition. At [64], the judge recorded the appellant's claim that he suffers from epilepsy but notes also that the appellant not been formally diagnosed with that condition and that there was no evidence of any diagnosis of epilepsy whilst the appellant was living in Kuwait. Accordingly, the judge did not accept that the appellant had a medical condition which might cause him to suffer lapses in memory. In my opinion, that finding was available to the judge on the evidence before her. Even at this stage, the appellant has only been able to produce an appointment letter which pre-dates the First-tier Tribunal hearing but which provides no evidence at all of diagnosis and a letter from Bradford District Care dated 30 January 2019 which records that the appellant 'presents as having poor memory and requires considerable support to remember appointments and organise himself to attend appointments.' In

essence, the letter consists of nothing more than self-reporting by the appellant; there is no formal diagnosis of epilepsy or any other condition or any indication how such conditions might affect the appellant's memory. In any event, the judge cannot be criticised for failing to have regard to evidence which was not available to her at the time of the promulgation of her decision.

6. I consider that the judge has produced a very detailed and even-handed decision. She has had proper regard to relevant evidence and has excluded from her analysis irrelevant matters. I find that the judge has not erred in law for the reasons asserted in the grounds of appeal or at all.

### **Notice of Decision**

7. This appeal is dismissed.

### **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 him or any member of his 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.

Signed

Date 28 February 2019

Upper Tribunal Judge Lane