



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2022-005379
First-tier Tribunal No:
EA/50345/2022
IA/01984/2022

THE IMMIGRATION ACTS

Decision & Reasons Issued:
On the 16 July 2023

Before

UPPER TRIBUNAL JUDGE MANDALIA

Between

Secretary of State for the Home Department

Appellant

and

Raha Mohamed Hassan
(NO ANONYMITY DIRECTION MADE)

Respondent

Representation:

For the Appellant: Mr P Lawson, Senior Home Office Presenting Officer

For the Respondent: Ms A Imamovic, Counsel, instructed by H & McLaws Solicitors

Heard at Birmingham Civil Justice Centre on 13 July 2023

DECISION AND REASONS

1. The appellant in the appeal before me is the Secretary of State for the Home Department (“SSHD”) and the respondent to this appeal is Mr Raha Mohamed Hassan. However, for ease of reference, in the course of this decision I adopt the parties’ status as it was before the First-tier Tribunal (“FtT”). I refer to Mr Hassan as the appellant, and the Secretary of State as the respondent.
2. On 7 July 2020, the appellant, a national of Somalia, applied for an EEA family permit to join his paternal aunt, Hawo Hassan Mahamud (“the

sponsor”), as an extended family member under Regulation 8 of the Immigration (European Economic Area) Regulations 2016 (“the EEA Regulations 2016”). The application was refused by the respondent for reasons set out in a decision dated 1 February 2021. The respondent said:

“You have stated that you are dependent on your sponsor and, as evidence, you have provided several money transfer receipts from Taaj Services. In order to corroborate the claimed dependency, the Home Office sought verification of the money transfer receipts. Enquiries were conducted with Taaj Services and it has been confirmed that the money transfer receipts provided is not a genuine document issued by the company.

Given that the documents provided to prove your dependency on your sponsor has been confirmed as fraudulent; this office does not accept that you are genuinely dependent on your sponsor, in accordance with Regulation 8, and with reference to 26(1)(b) of the Immigration (European Economic Area) Regulations 2016.”

3. The appellant’s appeal against that decision was allowed by First-tier Tribunal Judge Juss for reasons set out in a decision dated 10 October 2022.
4. The respondent claims Judge Juss erroneously stated at paragraph [14] of his decision that it is difficult to see why the money transfers relied upon by the appellant were not genuinely issued. He said:

“... The Respondent ECO states that inquiries were conducted and it transpired that the evidence as whole is a fabrication. However, nothing attests to this allegation. It is a bare assertion. If that is the case then the simple truth is that the appellant is dependent upon the sponsor.”

5. In fact, at pages 104 to 108 of the respondent’s bundle that was before the FtT, the respondent had provided the appellant and the Tribunal with a copy of a ‘Document Verification report’ (“DVR”) dated 13 August 2020 which confirmed that checks were carried out in respect of the money transfer receipts relied upon by the appellant. The DVR identifies the documents and states:

“Enquiries conducted with Taaj Services have established this document to be false. The documents had been scanned and sent to the contacts on 03/08/2020 10:30 Exact response received from contact 10/08/2020 10:37

Dear UK Visas and Immigration, Regarding case Re: GWF055737984 I can confirm the receipts submitted in the aforementioned matter are NOT genuine. King Regards,

Taaj Services

...”

6. The respondent claims Judge Juss considered the appeal in ignorance of material evidence that was before the FtT, that provides prima facie evidence that the money transfer documents relied upon by the appellant were not genuine.
7. Permission to appeal was granted by First-tier Tribunal Judge Hatton on 15 November 2022. Judge Hatton said:

“The grounds assert the Judge erred in making perverse/irrational findings. At [5] the Judge properly acknowledges that the Respondent’s refusal decision was based on a conclusion that the money transfer receipts purportedly issued by Taaj Services were not genuine. However, the Judge subsequently asserted at [6] that the Respondent provided no corroborative evidence in support of their conclusion. This is plainly incorrect. As asserted in the grounds, the Respondent’s Bundle clearly contains a Document Verification Report (“DVR”) at [pp.104-108] in which Taaj Services notified the Respondent that the receipts submitted by the Appellant are not genuine. Correspondingly, I am satisfied the Judge erred in finding at [14] that nothing attested to the Respondent’s allegation that the receipts were not genuine.”

8. I did not call upon Mr Lawson to expand upon the grounds of appeal.
9. In reply Ms Imamovic confirmed no rule 24 response has been filed, but the appeal is opposed. She concedes the judge did not take into account the DVR and to that extent there is an error of law in the decision of the First-tier Tribunal. However, she submits that error is immaterial to the outcome of the appeal. She submits that although the respondent had provided a copy of the DVR, the DVR has to be cogent and reliable evidence capable of establishing that the burden that rested upon the respondent had been discharged. Ms Imamovic submits that even if the judge had looked at the DVR, the decision would have been the same because there are deficiencies in the evidence relied upon by the respondent. She submits that in the DVR the respondent listed the money transfer receipts the respondent sought to verify. There is no evidence that copies of the actual receipts were provided. The DVR does not identify what documents are said to be false or why the receipts are said to be ‘false’. The response from Taaj Services indicates the respondent’s enquiries appear to have been directed to Taaj Service, Dubai, UAE. There was evidence before the First-tier Tribunal, at page 121 of the appellant’s bundle, that was referred to at paragraph [16] of the decision of Judge Juss. The sponsor had made her own enquiries with Taaj Services by email, and in an email reply, Taaj Services had said that they *“undertook an internal investigation. I am confident that you have been a client of ours for a long time..”*. Ms Imamovic submits there is no evidence from the respondent to explain why the respondent directed her enquiry to Taaj Services, in Dubai. Ms Imamovic submits that it is clear therefore that even if the DVR had been considered by Judge Juss, the outcome of the appeal would have been the same. Any error is therefore immaterial.

Decision

10. It is uncontroversial that Judge Juss failed to have regard to the DVR that was in the respondent’s bundle. Ms Imamovic accepts that to that extent there is an error of law in the decision of the First-tier Tribunal. She is right to do so. There was plainly material evidence before the Tribunal that the Judge simply failed to have any regard to.
11. Contrary to what was said by Judge Juss at paragraph [14] of his decision, there was evidence before the Tribunal that attests to the allegation made by the respondent. It was not simply a bare assertion as the judge described it. It follows that the Judge was wrong to go on to say, in that

paragraph that “... *the simple truth is that the appellant is dependent upon the sponsor.*”.

12. I do not accept that the error was immaterial and that in any event, the Judge would have reached the same decision if he had considered the DVR.
13. Ms Imamovic submits there are deficiencies in the evidence relied upon by the respondent. The problem with that submission is that Judge Juss did not reject the DVR as unreliable for the reasons provided by Ms Imamovic. He proceeds on the basis that there was no evidence to attest to the assertions made by the respondent in her decision.
14. At paragraph [15] of his decision Judge Juss said:

“... And when the Respondent takes issue with the genuineness of the money transfers, again no cogitable reasons are provided. It is not enough to just say the the (*sic*) money transfers are not genuine because the onus rests upon the respondent to establish prima facie evidence ...”
15. The respondent had provided the prima facie evidence the Judge was looking for but the Judge proceeds in ignorance of material evidence that was before the Tribunal. Plainly, if the Judge had accepted the respondent’s claim that the money transfer receipts provided were not genuine documents issued by Taaj Services that may have called into question the credibility of the appellant and sponsor, and the other claims they make in their evidence.
16. At paragraph [16] of his decision, Judge Juss said:

“In this appeal the Appellant has been provided with no opportunity to make representations after the allegations of lack of genuineness and there has been no attempt to interview her at the post overseas (given the issues in the refusal letter at paragraphs10-12, bearing in mind her statement dated 11.08.2022 together with a letter at page 121 of the AB). The decision is therefore unfair and in conflict with basic principles ...”
17. In fact, as Ms Imamovic submits, the sponsor had taken the opportunity to make her own enquiries with Taaj Services in the UK, as set out in the email exchange at page 121 of the appellant’s bundle. The email address for Taaj Services shown in that exchange is ‘taajUK1@gmailcom’. The response received by the sponsor states that an internal investigation has been completed. There is no information as to the nature of that investigation, what it revealed and there is only a limited explanation as to why Taaj provided information in the DVR that is at odds with what is now said. I note many of the money transfer receipts that were relied upon by the appellant in fact pre-date the Covid-19 pandemic that is offered as one of the explanations. I also note the email exchange between the sponsor and Taaj Services is dealt with by an individual who describes himself as the “Agent Support Manager” and the address provided is on Kilburn High Road, London. How he could be confident that the sponsor has been a client “for a long time” is unexplained. The money transfer receipts relied upon by the appellant in support of the application that are at pages 54 to 72 of the respondent’s bundle do not have any clearly identifiable contact

details for Taaj Services and it is not clear whether the originals of those documents have ever been provided by the appellant. The telephone number shown on those receipts 'Contact HQ Centre' is not a UK telephone number. There is however a 'Confirmation letter' at page 73 of the respondent's bundle that is said to come from 'Taaj Money Transfer' dated 1 July 2020. I note the email address on that letter for Taaj Money Transfer is different to the email address used in the exchange of emails that were relied upon by the appellant and that letter is said to emanate from an address on Coventry Road, Birmingham.

18. Judge Juss simply fails to engage with any of the evidence that was before the First-tier Tribunal and in my judgment the error of law that is conceded by Ms Imamovic is plainly material to the outcome of the appeal.
19. It follows that in my judgement, the decision of Judge Juss must be set aside with no findings preserved.
20. Given the nature of the error of law, there has been no proper determination of the appellant's appeal before the First-tier Tribunal. The matter will need to be heard afresh with no findings preserved. I accept, as Ms Imamovic submits that it is appropriate to remit this appeal back to the First-tier Tribunal, having considered paragraph 7.2 of the Senior President's Practice Statement of 25th September 2012.
21. The parties will be advised of the date of the First-tier Tribunal hearing in due course.

Notice of Decision

22. The SSHD's appeal is allowed and the decision of FtT Judge Juss is set aside.
23. The appeal is remitted to the FtT for a fresh hearing of the appeal with no findings preserved.

V. Mandalia

Upper Tribunal Judge Mandalia

Judge of the Upper Tribunal
Immigration and Asylum Chamber

13 July 2023

