



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2023-004345
First-tier Tribunal No:
DC/00006/2022

THE IMMIGRATION ACTS

Decision & Reasons Issued:
On the 23 November 2023

Before

UPPER TRIBUNAL JUDGE PERKINS
DEPUTY UPPER TRIBUNAL JUDGE LEWIS

Between

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

ADRIATIK SULAJ
(anonymity order not made)

Respondent

Representation:

For the Appellant: Ms A Everett, Senior Home Office Presenting Officer
For the Respondent: Ms S Naik KC instructed by Direct Public Access

Heard at Field House on 17 November 2023

DECISION AND REASONS

(extempore)

1. This is an appeal by the Secretary of State against the decision of the First-tier Tribunal allowing the appeal of the respondent, hereinafter the claimant, against the decision of the Secretary of State to deprive him of his British nationality.
2. The short point is that the claimant obtained his British nationality on the pretext that he was entitled to protection as a refugee, but he did that by assuming a false identity. He was not given asylum and his appeal rights were exhausted in August 2003. He was given permission to stay in the United Kingdom in part because of the poor conditions that existed in the country that he pretended was his country of nationality.
3. In November 2010 he was given Indefinite Leave to Remain, mainly because he had established himself in the United Kingdom. That, rather than his real identity, was the dominant reason for his being allowed to stay but he continued using his false identity when he claimed naturalisation in 2013.

4. The deception came to light and, as is usually the way, the Secretary of State set about procedures to deprive him of his acquired nationality. It is not suggested that the fundamental facts leading to that are in any way misrepresented by the Secretary of State. This is a man who has cheated. A fairer way of putting it would be to say that he absorbed the cheat that was done on his behalf when he was brought to the United Kingdom in 2002 aged 16 years. Nevertheless, telling lies to be recognised as a refugee and then to become a British citizen is a serious matter and nothing we say today is intended to excuse or justify that, although we do recognise it was a long time ago. In the intervening time it is accepted that the claimant has been industrious and has established a family in the United Kingdom and a viable small business.
5. The First-tier Tribunal has decided that the effect of deprivation (I stress the effect of *deprivation* not the effect of removal) is disproportionate, because it would destroy that man's business and with it the livelihood of himself, his wife, their minor children and the people who work for him. This finding might be described as speculative, but much of the work of this Tribunal is "speculative" in the sense that it involves making inferences as to what is likely to happen informed by primary fact finding.
6. Paragraph 9 of the First-tier Tribunal's judgment is very important. There the judge said:

"The factual evidence in this appeal was uncontested. The appeal proceeded by way of submissions made by both sets of representatives, which I have taken into account when reaching my decision."
7. Given the unassailable findings of fact, the grounds of challenge were somewhat optimistic. Ms Everett, who if I may say so respectfully is experienced and realistic, understood the difficulties created. There are points she would like to have made about the conclusion that the consequences of deprivation would be as severe as predicted. The difficulty she has is that the findings were based closely on what the claimant said, which was not challenged. It was not challenged because the Presenting Officer in the First-tier Tribunal chose not to challenge them. Given those findings, we do not see how the decision can be in any way criticised or unsettled.
8. It is possible to give an extempore judgment in this case because Judge Lewis and I had the opportunity of considering the case carefully before we came to the hearing room and although we appreciate that Ms Everett has taken the best point she can, it is not good enough.
9. There is no error of law in the decision and we dismiss the Secretary of State's appeal.

Notice of Decision

10. The Secretary of State's appeal is dismissed. The decision of the First-tier Tribunal to allow the claimant's appeal stands.

Jonathan Perkins

Judge of the Upper Tribunal
Immigration and Asylum Chamber

21 November 2023