



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2022-003971
First-tier Tribunal Nos:
PA/53612/2021
IA/09813/2021

THE IMMIGRATION ACTS

**Decision & Reasons Issued:
On the 27 June 2024**

Before

UPPER TRIBUNAL JUDGE PERKINS

Between

**KJM
(ANONYMITY ORDER IN FORCE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr F Ahmed, Legal Representative from Hanson Law Solicitors
For the Respondent: Ms A Ahmed, Senior Home Office Presenting Officer

Heard at Field House on 1 March 2024

Order Regarding Anonymity

Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, the appellant is granted anonymity.

No-one shall publish or reveal any information, including the name or address of the appellant, likely to lead members of the public to identify the appellant. Failure to comply with this order could amount to a contempt of court.

DECISION AND REASONS

1. This is the remaking in the Upper Tribunal of a decision on the appeal of the appellant against the decision of the respondent on 30 October 2020 refusing him international protection. The appeal was previously heard and allowed but I set aside that decision because I found it was an unlawful decision.
2. My full reasons for finding error of law have been sent to the parties but the short point is that I found that although the First-tier Tribunal Judge directed herself to apply the decision in **Devaseelan [2002] UKAIT 000702** she did not follow that direction and had essentially redecided the appeal.
3. Before me it is for the appellant to prove his case but he is entitled to protection if he can show that he faces a real risk of serious harm.
4. The appellant first claimed asylum on 24 June 2015. The application was refused in a decision dated 28 September 2015 and the decision appealed to the First-tier Tribunal. The appeal was dismissed in a decision of First-tier Tribunal Judge A J Parker promulgated on 6 September 2017 and that decision was upheld on appeal to the Upper Tribunal.
5. I begin by considering Judge Parker's reasons for dismissing the appeal. His Decision and Reasons is at page 276 of the Secretary of State's bundle.
6. Judge Parker noted, correctly, and it is still the case, that the substantive issue in the appeal is whether the appellant is in fact a national of Syria. He is not documented and the evidence is that in the event of his return there he would face a real risk of persecution. Judge Parker noted that the appellant is accepted to have Kurdish ethnicity. It is the respondent's suspicion that he is in fact an Iraqi Kurd rather than a Syrian Kurd but the appeal was, correctly, concerned with whether he had established his claim to be Syrian.
7. The appellant gave evidence before Judge Parker using a Kurdish Kumanji interpreter and he was asked to explain why he spoke with an Iraqi dialect. The appellant seemed to accept that he spoke with an Iraqi dialect but said that was because he lived in Dereke which is a town close to the border of Iraq and Syria. He said his parents were Kurdish and he had lived all of his life in Syria although at the time he gave evidence his parents lived in Turkey.
8. The judge noted that at the appellant's screening interview he did not mention he had any fear of the Syrian authorities but only his fear of ISIS. The judge felt this casted doubt on his credibility. If the appellant really did fear the Syrian authorities it was an ideal time to mention the fact.
9. The judge had before him a linguistic origin identification report dated 14 September 2015. The report considered the conflicting claims of the appellant to have been born and to have lived in Derek (this is an anglicised spelling and there are many variations) and the respondent's hypothesis that he was in fact an Iraqi. The judge noted the linguistic report's conclusion that the appellant had features in his speak that were "clearly inconsistent with the linguistic community" from which he claimed to have come, and the conclusion that the analysis "clearly suggests that the results obtained most likely are consistent with the linguistic community as stated in the hypothesis" of the Secretary of State

10. The judge noted that the report itself accepted that there were limitations on the utility on the linguistic origin identification report which called for caution. The judge directed himself “I have attached weight to the report but it is not infallible.” The judge then looked at answers given in the asylum interview and particularly answers to questions aimed at establishing his nationality and identity.
11. The respondent accepted that some of the answers given were appropriate but others were not.
12. Paragraph 52 is particularly significant. The judge said of the appellant:

“He gave consistent evidence that Dayrik is 2.5 hours away from Hasaka one hour from Amuda. He was able to list TV channels, the President and ethnic groups. However he gave inconsistent evidence as to the name of the Prime Minister and named the currency as Lira instead of the pound and incorrectly described the £200 note. In addition he said he only likes football but was unable to name any Syrian football team. This is very surprising. He did not know which party the President represents. He did not know the President’s tribe and only knew basic Arabic. He knew very little about the nationality status of Kurds in Syria”.
13. The judge considered the appellant’s explanation for the bad answers he gave. It was the appellant’s case that he misunderstood the question about the Prime Minister and thought he was being asked about the identity of the Mayor of Hska. However notwithstanding the judge giving time for the evidence to be produced there was no evidence identifying the Mayor of Hska so the point rather lost its force.
14. The appellant had failed to produce any objective evidence to support his claim that the Syrian currency is also called the lira or that his description of the £200 note was correct.
15. The judge noted there was no expert evidence attacking the LOID report (I recognise LOI as meaning Linguistic Origin Identification but I am flummoxed by the “D”) or producing an alternative report.
16. The judge also considered Section 8 of the Asylum and Immigration (Treatment of Claimants etc.) Act 2004 which required him to find as having an adverse effect on the appellant’s credibility, his failure to produce a passport or travel ticket or to have claimed in a safe country.
17. In short the judge found that the appellant had not proved his case and he dismissed the appeal.
18. To set the appellant alleged fears in context I have looked at the record. In the screening interview when asked to explain briefly who he feared he replied “Assads regime and Daish” (question 9). In answer to question 11 he confirmed that he had no other fear at all.
19. He said in answer to question 44 that he watched Real Madrid play football on the television in Syria. He did not watch Syrian football. He was asked if he watched Syrian football and he indicated he did not but only watched Real (question 47). He could not name any Syrian premier league teams. He said he

did not watch much football. It was suggested that such things were the kind of things that were talked about in ordinary conversation. He could not explain why he did not know. He just said that he did not but he identified a player as Majid. He did not know the name of the team for which he played.

20. At question 51 he indicated the name of the President of Syria but said in answer to question 52 that he did not know the party he represented.
21. He named the Prime Minister of Syria as Muazi Najibsalim which apparently is a wrong answer.
22. In answer to question 59 he confirmed the currency was the lira. He said he used the currency in his job and was familiar with 50, 100, 200, 500 and 1,000 lira notes. He said 200 lira note was the one he used most.
23. Then at question 111 he was asked if there were churches in Derek and he identified the Armenian church.
24. In answer to question 115 he attempted to identify buildings that would stand out. He said that the Mansour Dam which was on the outskirts of Derek in the north and a building that would stand out was the Hajil Leman Miza Park. He was also asked to name main roads in Derek and areas or districts within Derek which he purported to do. He indicated that the River Tigris was a river in Derek but when pressed he said it was close by Derek rather than running through it. He was asked if Derek was known by another name and said Al Malikiyah.
25. The appellant gave evidence before me. He adopted a statement he had made on 20 February 2024 for use at the hearing.
26. He began by saying that in his screening interview he had not mentioned fear of the Syrian regime because he had been told to be brief and he would have an opportunity to give a full statement later which he did. He said it was not remarkable that he did not have a strong knowledge of Syria. He had not gone to school. The fact that he was Kurdish put him at risk within Syria and he did not travel much. He did not speak Arabic much. He said it was wrong to criticise him for identifying the currency of Syria as the lira. He said that the words "pound" and "lira" are both used in Syria to describe the currency. He supported this by reference to a website called Market Watch which commented on the introduction of a new large denomination banknote and used the words "pound" and "lira" to describe the currency.
27. He said that there was a footballer called Majed.
28. He said that they were right to say that he only had basic Arabic. He said such as the lot of the undocumented Kurd.
29. He referred to Google maps to show there was indeed an Armenian church in Syria.
30. He then said he had been criticised because there was no evidence to show that a person from Derek would be expected to speak Kurdish Kurmanji but he said that he came from northern Syria and had produced evidence from Manchester University showing that Kurdish Kurmanji is indeed spoken there.

31. He then criticised the language report. He did not know the name of the people who interviewed him. It was conducted by telephone and was short. The report did not consider the fact that his claimed hometown was close to the borders of both Iraq and Turkey which could have impacted on what he had to say. Neither was the evidence that the person who spoke to him was qualified at all.
32. He said that he had Syrian money with him when he came to the United Kingdom which had been possessed by the Home Office at some stage. He suggested this in itself tended to suggest links with Syria.
33. He then referred expressly to new evidence provided from his father in Turkey. He said of this evidence:

“The documents are genuine and was sent by my father from Turkey when they were still in Turkey before they returned to Syria. My father had issues with people in Turkey, as there are lots of threats against Syrian Kurds who link them to PYD which is the Democratic Union Party is a political party of Syria, they label Kurds as working for the party. My family was afraid, and they took more risks to return to PYD area rather than be persecuted by the Turkish authorities.”

34. He said he said he communicated with his cousins through WhatsApp. His family did not have a telephone.
35. He had documents from Turkey which he described as original documents.
36. He then referred to a meeting with one Saleem Amin Saleem who he understood to be a national of Syria and from Al-Malikiya. He said that his father had a car in Syria and took the car to Saleem’s father’s workshop when he needed a mechanic. Saleem’s father had a high reputation as a mechanic. On occasions he went with his father and met Saleem who was sometimes on the premises and a friendship developed. Saleem sometimes attended a mosque near the appellant’s house in Syria and that helped them become more friendly. He said that when he went to his solicitors’ offices in Birmingham he sometimes visited a restaurant called the Ama restaurant and on one occasion Saleem approached him and reminded him that they had met before.
37. As far as I can ascertain, the documents that most are relevant comprise an identity document said to be issued to the appellant’s father giving his address as Al-Malikya and a similar document relating to the appellant’s mother giving the date and place of birth as Malikya, and similar documents for the appellant and siblings identify them as having been born in Malikya.
38. I have considered the refusal letter dated 30 October 2020.
39. The refusal letter considered the additional documentary evidence and said at paragraph 23:

“You have submitted what you claim to be your Syrian Residency Certificate accompanied by an English translation dated 06/03/2020. Ahmed Aji Basil, Muktar of Qaza Shimal, confirms Kovan jars Amin Mahmood is known to him and will forward all personal documents to him. However, as noted in your witness statement dated 06/03/2020, you state your name is Kovan Jarjes Mahmood, not Kovan jars Amin Mahmood, as stated in the English

translation. You have never been known to the Home Office as Kovan jars Amin Mahmood. You have failed to submit evidence which demonstrates how and when you received the document.”

The Secretary of State then decided that in the context of a person who had been found to be dishonest this evidence was not sufficiently persuasive to support a different conclusion.

40. The appellant was cross-examined.
41. He insisted that he was from Syria. He accepted he was disagreeing with the previous findings. The appellant accepted he had previously failed to describe properly the £200 note and the name of the Prime Minister although he said he misunderstood the question. He thought he was being asked about someone else. He was asked about the documents and gave answers about the persons named on them.
42. He was asked about his meeting with Saleem but said that he had told the truth that they became friendly when they met as boys as his father took the car to Saleem’s father’s workshops and then saw each other sometimes at a mosque.
43. His witness Saleem gave evidence before me. He adopted his statement. It was a very similar account of how he met the appellant in a hotel earlier this year and how they resumed their friendship.
44. He did not find it remarkable that they did not know each other on social media. Theirs was not that kind of friendship.
45. I consider and outline the expert evidence.
46. There is a report from Dr Kaveh Ghobadi dated 23 February 2024. It gives appropriate information about his expertise and instructions. His main point was that every person born in Syria would be issued with a birth certificate but a Kurd with a birth certificate would not necessarily be recognised as a Syrian national. He talked in very general terms about the difficulties Kurdish people faced in Syria.
47. There is then a report entitled The Dialects of Kurdish produced under the auspices of the University of Manchester. This explains how the Kurds are a national group whose historic homeland is divided between Turkey, Syria, Iraq, Iran and Armenia. There were two major dialects of the language including Kurmanji-Kurdish which is said to be spoken in northern areas of Kurdistan that is Turkey, Armenia, Syria and northern Iraq. It is to be distinguished from Sorani Kurdish which is more common in central Iraq and Iran.
48. I have considered elsewhere the evidence about the currency. The article Associated Press is entitled “New Syrian lira banknote is largest denomination ever” and it seems to use the word “pounds”, which appears on the currency itself in English, and “lira” to describe the currency.
49. There is evidence of an Armenian church being in the village Il-Malikeysh.
50. There are then two unreported cases of the Upper Tribunal that are critical of language analysis.

51. There is a newspaper report from the Guardian referring to the language tests being widely criticised. This is an unhelpful document. It states “Campaigners and experts have criticised the Home Office for the widespread use of language analysis on those claiming to have fled Syria, describing it as ‘pseudoscience’ and a political tool to exclude migrants”._Maybe they have but that is of very little assistance to me in determining what weight to give to the report with the rest of the evidence in this case.
52. There is a Human Rights Watch Report on conditions in Syria but that is not important. It is accepted that if the appellant is Syrian he needs protection.
53. Of much more assistance is an academic paper entitled “The trouble with relying in how people speak to determine asylum cases” from Professor Monika Schmid and Professor Peter L Patrick, who are both professors of linguistics at the University of Exeter. It should be made plain immediately that judges do not rely on how people speak to determine asylum cases. The way a person speaks may be a helpful strand of evidence amongst others which is how the evidence might be helpful here. The report points out that the operators in the chain of testers who listen to the evidence and evaluate it are not always identified and their competence cannot always be checked. Indeed sometimes their competence is very much in doubt. It is also very difficult to determine what an accent really is. However the article as a whole is more about a general warning than a specific fault.
54. I have considered carefully the skeleton argument provided and the submissions from both parties. It is convenient to mention here that his Decision and Reasons is based closely on a draft the I received from the typists on 13 March 2024.
55. The appellant has to prove his case but it is sufficient to prove that there is a real risk of persecution in the event of return. For all practical purposes, the appellant has to prove that he is Syrian. If he is does then his appeal succeeds. If he fails to prove that then the case has to be dismissed.
56. My starting point is the decision of Judge Parker. The additional evidence before me essentially is the additional criticisms made of Sprakab and the language analysis report, the documents from Syria and the evidence of the chance meeting.
57. The problem of the appellant is that none of these strands of evidence are particularly compelling. Of course I appreciate that that is not the test but I am looking for something to overcome the finding that has already been made. If the documents showing residence in Syria are reliable then I would give them a great deal of weight. Of course it does not follow from the fact that the appellant lived in Syria that he is Syrian but it will help his case no end. Similarly if I believe the evidence that there was a chance meeting with somebody who knew him from Syria for exactly the same reasons it would be very persuasive additional evidence. If both of these things are true the case becomes a lot stronger and I remind myself that it is not necessary for me to be persuaded by both of these strands of evidence to find the appellant has proved his case.
58. The difficulty the appellant has is that there is no really strong point in his evidence. I make it plain that I accept that it should not be held against him that he did not say much about or anything about the Syrian authorities in his

screening interview. Screening interviews are intended to give an overview so the case can be correctly categorised. If the appellant were telling the truth it would make perfect sense that his dominant fear at that time were the antics of Islamic State and saying what he did was sufficient to identify the nature of the case to see that it was processed properly.

59. I am also impressed by the additional evidence of the currency in Syria sometimes being called lira. It also seems plain to me that the official name of the currency is the pound. This is printed on the face of the document on the copy that I have been shown. I find it surprising that the appellant did not identify the pound as the official currency but, given that he used the name that is commonly used in Syria including in published documents, I cannot give significant adverse weight to his claim. Nevertheless, whilst his use of the word "lira" to describe the currency is not (I am satisfied) the revealing and damaging point that it first seemed his choice of the word "lira" is not good evidence that he comes from Syria.
60. Clearly there is evidence that he got the name of a footballer correct but this is not helpful. What the interviewer was clearly seeking was something that would enable the appellant to talk about things he knew in Syria and he could not. Not everybody is interested in football. I do not regard it as an adverse point that he could not talk about Syrian footballers with any great interest or enthusiasm but it is not a positive point either.
61. I make similar findings about the evidence concerning the church in Derek. There is clear evidence that there is an Armenian church in Derek and the appellant was led into talking about churches. It is not clear why he should be particularly familiar with churches in Syria. However, although it is correct to say there was an Armenian church, the interviewer was seeking was information of some building or architectural feature which would show he knew the town but the appellant suggested nothing.
62. He has done nothing to supplement his evidence about the park.
63. I can make no sense of his evidence that there is a nearby dam or that the town is built on the River Tigris. I appreciate the appellant changed his answers in the course of the interview to say that it was near the Tigris but a very odd thing to indicate that the river runs through the dam when on his own case it does not. Again I am not elevating this into a strong adverse point but it is lack of positive points. There is very little in the interview which indicates real familiarity with a town that he said was his home.
64. Against this background the additional evidence of the documents and chance meeting are not persuasive. There was a pretty clear hint from the Home Office that it was open to the appellant to get more evidence about the documents he had produced from Syria. Documents tending to suggest that he received packages from Syria does not help me very much to determine the provenance of the documents. There is no expert evidence to help me.
65. I have reflected carefully on the evidence of the appellant and the supporting evidence about the chance meeting with old friends. I direct myself that it could be true but, even allowing for the fact that people from the same part of the world might reasonably be expected to gravitate towards common restaurants in the United Kingdom, it must be unlikely for a chance meeting to have happened

in the way that it did. However I accept that the appellant was not caught out in an obvious untruth and I reject Ms Ahmed's insistence it was remarkable that they were not "friends" on some kind of social media. The word "friend" is far too elastic in English for me to be confident that there is any merit in the point.

66. Nevertheless and after reminding myself again of the low standard of proof, I am not persuaded that I have been told the truth. I find both of these additional strands of evidence are desperate attempts to establish the person comes from Syria but they do not undo the damage done by a weak interview.
67. I do not write off the Sprakab Report. I appreciate the specific criticisms made of the testers but the report is to be seen in its entirety. It is important to appreciate that reports of this kind have a limited value. They do not match the kind of accuracy that can be obtained in DNA evidence for example in matters of familial connection but it must be open to someone who has familiarity with a particular part of the world to listen to someone speaking and saying that is not where I am from and that to be considered with the other evidence, that is all that has happened here.
68. To bring it all together I remain unpersuaded that the appellant is from Syria as he claims. It follows therefore that I dismiss this appeal.

Notice of Decision

69. This appeal is dismissed.

Jonathan Perkins

Judge of the Upper Tribunal
Immigration and Asylum Chamber

25 June 2024