



**IN THE UPPER TRIBUNAL**  
**IMMIGRATION AND ASYLUM CHAMBER**

Case No: UI-2023-001295

First-tier Tribunal Nos: PA/52511/2021  
IA/08094/2021

**THE IMMIGRATION ACTS**

**Decision & Reasons Issued:**

On 10<sup>th</sup> of July 2024

**Before**

**UPPER TRIBUNAL JUDGE KEITH**

**Between**

**'AA' (Egypt)**  
**(ANONYMITY ORDER MADE)**

Appellant

**and**

**The Secretary of State for the Home Department**

Respondent

**Representation:**

For the Appellant: The Appellant did not attend and was not represented  
For the Respondent: Mr S Walker, Senior Home Office Presenting Officer

**Heard at Field House on 2 July 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. This is because the appeal relates to an asylum claim.

**DECISION AND REASONS**

**Preliminary Issue - the Appellant's non-attendance**

1. These written reasons reflect the full oral decision which I gave at the end of the hearing. I considered first whether to proceed with the hearing. I reminded myself of the well-known authority of Nwagwe (adjournment: fairness) [2014] UKUT 00418 (IAC). I regarded it as appropriate to proceed with the hearing, notwithstanding the absence of the appellant or any representations for him.

This appeal has a lengthy litigation history, and this is the third hearing in relation to remaking. Deputy Upper Tribunal Judge Chana had found that the First-tier Tribunal had erred in law in dismissing the appellant's appeal, in a decision of 10<sup>th</sup> July 2023. The first hearing for remaking was heard on 31<sup>st</sup> October 2023, at a time when the appellant had legal representation. At that hearing, the appellant's Counsel applied for an adjournment on the basis that the appellant would be able to obtain an original copy of a claimed Syrian identity card. He claims to be Syrian, and the respondent believes him to be Egyptian. The respondent has a copy of what is claimed to be a Syrian identity card but asserts that it is of poor copy quality and does not accept it to be genuine. The respondent's view that the appellant is Egyptian was based on a detailed linguistics report prepared by the specialist firm, 'Sprakab', a copy of which was in the respondent's bundle. The respondent also relied on a previous unimpugned finding by Judge Liddington, in an earlier protection appeal. The appellant's counsel said that provision of the original document would resolve the matter.

2. This Tribunal issued detailed directions at the end of the adjourned October 2023 hearing. These related to the provision of the original Syrian identity document and evidence as to its chain of custody. The respondent was to confirm that it retained a copy of the same document. The respondent complied with those directions. The appellant complied with none of them.
3. The Tribunal learned that on 14<sup>th</sup> February 2024, the Solicitors Regulation Authority intervened in the practice of the appellant's representatives, Duncan Ellis Solicitors. The Tribunal sent to the appellant directly at his home address notice of a telephone case management hearing, which was heard on 17<sup>th</sup> May 2024. The appellant did not attend and was not represented at that hearing, which was, as a consequence, adjourned.
4. On 21<sup>st</sup> May 2024, this Tribunal wrote to the appellant by post (it does not have a telephone number or email address for him), in the following terms:

"I am writing to you regarding your appeal to the Upper Tribunal (reference UI-2023-001295).

Please note that your instructed legal representative, Duncan Ellis Solicitors, was subject to an intervention by the Solicitors Regulatory Authority as of 14 February 2024. Duncan Ellis Solicitors has been closed down and will no longer be able to represent you in your appeal.

Please note that the Solicitors Regulatory Authority has appointed solicitors Lester Aldridge LLP as its intervenor, i.e. to act as its agent to deal with all matters currently held by Duncan Ellis Solicitors. For further information you may contact Mr Chris Evans of Lester Aldridge LLP, Russell House, Oxford Road, Bournemouth BH8 8EX (tel: 01202 786 341, e-mail: [Intervention.Enquiries@LA-Law.com](mailto:Intervention.Enquiries@LA-Law.com)).

However, please note that Lester Aldridge LLP will not be able to represent you in your appeal to the Upper Tribunal.

The Upper Tribunal will list your appeal for a remaking hearing in no less than 28 days' time. You will be directly notified in writing of the hearing venue and of the hearing date and time in due course. I

confirm that an appropriate interpreter will be booked to assist at the hearing.

If you decide to instruct a new legal representative please ensure that you inform the Upper Tribunal of the new legal representative's name, address, telephone number and e-mail address as soon as possible. You may write to the Upper Tribunal at UTIAC, Field House, 15-25 Breems Buildings, London EC4A 1DZ or you may send an e-mail to FieldHouseCorrespondence@justice.gov.uk. Please ensure that you quote the appeal reference UI-2023-001295 in all correspondence. I have enclosed with this letter for your reference a full bundle of documents in the appeal.

Please give particular attention to the Directions of Upper Tribunal Judge Keith of sealed date 1 November 2023. Please note that the numbered directions 2, 3, 4, 5, 7 & 8 have not yet been complied with. You should ensure that you comply with these directions as soon as possible and no later than 14 days before the hearing, in accordance with the Upper Tribunal's current standard directions which are also enclosed.

Please note that the UTIAC Guidance note referred to in direction 8 can be found at the following webpage:

<https://www.judiciary.uk/guidance-and-resources/upper-tribunal-immigration-and-asylum-chamber-guidance-note-on-ce-file-and-electronic-bundles-2/>

5. The appellant was sent a full copy of the Tribunal bundle to his home address, prepared by Tribunal staff, including previous Tribunal decisions. There has been no further response from the appellant at all. He has not attended this hearing. He has given no explanation, nor has he attempted to make contact.
6. I am satisfied that, by reference to Nwaigwe, the appellant has been given every opportunity to participate fully in the hearing and regardless of the reasonableness or otherwise of his conduct, he has not been deprived of the right to a fair hearing. Everything which could have been done, has been done, to ensure his ability to participate effectively. The fact that he chooses not to engage with the proceedings is a matter for him, but he has not been so deprived and I am satisfied that it is appropriate to proceed with the hearing.

### **The remaking of the appeal**

7. I then come on to the substance of the appeal before me and without any discourtesy to Mr Walker, he had little to add to the respondent's original decision and reasons dated 11<sup>th</sup> May 2021. The protection appeal stood or fell on the issue of whether the appellant was Syrian, as he claimed, or Egyptian, as previously assessed by Sprakab and Judge Liddington.
8. The background is that the appellant claimed to have been born on 28<sup>th</sup> November 1996 and entered the UK in 2013. His previous asylum claim was refused on 20<sup>th</sup> February 2015 and his appeal was dismissed by Judge Liddington on 16<sup>th</sup> September 2015. She found that the appellant was from Egypt and not Syria as claimed, based on the detailed Sprakab linguistic analysis, which was very clear; and also based on the appellant's mother living in Egypt. There was

no evidence in the Judge's view at the time, that should the appellant be returned to Egypt he would face any risk of persecution or be of any interest to the Egyptian authorities. He was in good health and had had the benefit of education in the UK. His appeal rights were exhausted on 5<sup>th</sup> October 2015. He went on to make further submissions on 17<sup>th</sup> November 2018. The respondent took Judge Liddington's decision as its starting point. The respondent considered a copy of a purported Syrian identity document, but set out its concerns, namely a photograph of the appellant on the document as an adult when he claimed to have left Syria as a minor; a difference in names; and no explanation from the appellant about how he had obtained the document. The respondent concluded that on the basis of this and the previous evidence, that the appellant was Egyptian.

9. The respondent went in to consider the appellant's private and family life. In relation to family life there was no suggestion, to which I have been referred, of any partner or children in the UK and in relation to private life the obvious point is that the appellant has lived in the UK, albeit for a significant period but little weight should be attached to private life in circumstances where he entered unlawfully and there was no suggestion that he had ever been granted leave. There is a brief reference in the refusal letter to the appellant claiming that he suffers from PTSD and had suicidal ideation but had not acted upon it. There is a psychiatric report, prepared by a Dr Dhumad, prepared on 7<sup>th</sup> March 2023. The medical report was based on the presumption that the appellant was a Syrian national and had witnessed atrocities of war in Syria, which would plainly be incorrect if, in fact, the appellant is Egyptian.

### **My Discussion and Conclusions**

10. I remind myself of the guidelines in Devaseelan, as have also been considered in more recent cases and in particular that Devaseelan is not a straight-jacket. I take Judge Liddington's decision as my starting point, from which I may depart on a principled basis. What had been argued by the appellant in this case was that there was new evidence, specifically some form of untranslated Syrian identity card. The respondent had made plain its objection, namely that it objected to the provenance of the document, whether it was reliable and whether it was a principled basis to disturb Judge Liddington's decision, which was based in part on the detailed Sprakab Report on the linguistics, which stated that there was a very low likelihood that the appellant's linguistic background was from Syria, and a very high degree of certainty that his was from an Egyptian linguistic background. I have also considered Dr Dhumad's report, which presupposes that the appellant has suffered PTSD on the basis of having witnessed war atrocities. I have not considered this evidence in isolation, but in the round. I do not find that this evidence answers or outweighs the concerns which Judge Liddington had about the appellant's credibility, which also related to inconsistencies in the appellant's account (as per §30 of that decision). Dr Dhumad assessed the risk of the appellant committing suicide as being moderate and was likely to increase in the event of removal to Syria. The respondent does not intend to remove him to Syria.
11. I have previously given detailed directions which would answer the concerns about the provenance and reliability of the claimed Syrian identity document, with which there has been no compliance by the appellant. Part of the explanation for that non-compliance is the intervention by the SRA into Duncan Ellis's practice, for which the appellant cannot be criticised. Notwithstanding,

that however, the appellant's friend, who had attended the hearing on 1<sup>st</sup> November 2023, was aware of the importance of the ID document and there has been nothing heard since. In the circumstances, I do not regard a poor-quality copy of an identity document, the provenance of which cannot be assessed, together with a report on PTSD predicted on claims of witnessing events in Syria, as being a principled and proper basis for departing from Judge Liddington's earlier decision on credibility and the Sprakab report. I am not satisfied that even to the lower standard of proof, the appellant has demonstrated the core principal part of his claim, namely that he is Syrian. I find that he is Egyptian. If he is returned to Egypt, no other matter is relied upon as forming the basis that he would have a well-founded fear of persecution in that country.

### **Notice of Decision**

12. **I therefore remake the appellant's asylum and human right's claim by dismissing the appellant's appeal.**

**J Keith**

Judge of the Upper Tribunal  
Immigration and Asylum Chamber

**8<sup>th</sup> July 2024**