



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2023-004130

PA/53034/2023
IA/00524/2023

THE IMMIGRATION ACTS

Decision & Reasons Issued:

16th December 2024

Before

UPPER TRIBUNAL JUDGE LANE

Between

JIMMY HABIB NAJAR
(NO ANONYMITY ORDER MADE)

Appellant

and

Secretary of State for the Home Department

Respondent

Representation:

For the Appellant: Mr McStravick
For the Respondent: Mr Diwnycz, Senior Presenting Officer

Heard at Royal Courts of Justice (Belfast) on 29 May 2024

DECISION AND REASONS

1. The appellant claims to be a citizen of Syria, a claim not accepted by the Secretary of State. The background to his appeal is set out in the First-tier Tribunal decision dismissing his appeal at [3-4]. The appellant appeals to the Upper Tribunal on several grounds but permission to appeal was granted on the ground that the judge acknowledged after the hearing (having received written submissions from the appellant's representative) that certain documents relevant to the appellant's identity should be considered as supporting the appeal. As the grounds state, the 'judge accepted that the documents uploaded to the portal could be considered true copies of the originals.'

2. As a consequence of agreeing to consider the documents after the hearing, the judge analysed the documents by reference to all the evidence and made detailed findings on the documents at [24-25]. The appellant complains that he was thereby denied the opportunity to explain matters which the judge found limited the weight attaching to the documents and damaged the appellant's credibility. The appellant states that the evidence was filed and served in good time before the hearing and that the judge should have raised the concerns he had with the representative thereby affording the appellant an opportunity to deal with those concerns.
3. At the initial hearing, Mr Diwnycz, Senior Presenting Officer for the respondent, made no submissions.
4. I find that the judge has proceeded in a manner which has denied the appellant a fair hearing. Even if the judge decided subsequent to the hearing that he would consider the documents as true copies of the originals, he should have invited submissions (either written or oral at a reconvened hearing) from both parties on the documents before making findings. His failure to do caused him to fall in legal error.
5. I set aside the First-tier Tribunal's decision. Given the nature of the error, there will need to be a hearing *de novo* in the First-tier Tribunal to which Tribunal the appeal is returned for that Tribunal to remake the decision.
6. The First-tier Tribunal judge declined to make an anonymity direction and no application was made to me for such a direction.

Notice of Decision

The decision of the First-tier Tribunal is set aside. None of the findings of fact shall stand. the appeal is returned to the First-tier Tribunal for that Tribunal to remake the decision following a hearing *de novo*.

C. N. Lane

Judge of the Upper Tribunal
Immigration and Asylum Chamber

Dated: 22 November 2024