



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: IA/06690/2013

**THE IMMIGRATION ACTS**

Heard at Field House  
On 6 September 2013

Determination Sent  
On 24 September 2013

Before

UPPER TRIBUNAL JUDGE ALLEN

Between

SECRETARY OF STATE FOR THE HOME DEPARTMENT

and

Appellant

MUHAMMAD SHAHBAZ RAFIQ

Respondent

**Representation:**

For the Appellant: Ms E Daykin, Counsel instructed by Rashid & Rashid Solicitors  
For the Respondent: Ms J Isherwood, Senior Home Office Presenting Officer

**DETERMINATION AND REASONS**

1. This is the appeal as it was originally by Mr Rafiq against the Secretary of State's decision of 14 February 2013 refusing his application for leave to remain.

2. The basis of the claim is that it was an application for settlement in relation to long residence and the matter was considered by the judge who heard evidence from a number of witnesses one of whom he did not find helpful but he found the other three witnesses, all to be as he put it very credible and his findings in respect of them are to be found at paragraph 29 of the determination and going on to paragraphs 30 and 31.
3. The key issue of dispute in this case relates to documentation that was produced by Mr Rafiq, whom I will call the appellant although technically before me today is the respondent. He produced a document and invoice dated 3 March 1999. He had not kept the original, he had given it to his solicitors who he said had sent it to the Home Office. He was asked about the invoice and why he did not claim after getting advice and he said it was because they did not actually do immigration work, that he did not get any advice. It was pointed out to him that the invoice said immigration advice and he had said he had gone to the counter, was asked to sit for a while and was introduced to someone who told him they did not do immigration work and that was what they put on the invoice so it really was not much use to him at all.
4. This document was part of the reasons why the application was refused by the Secretary of State and the reasons for this are set out in the refusal letter. Concerns about the invoice were first that no company name was detailed, there was a spelling mistake on the invoice and the telephone number detailed on the invoice had an area code of 0207 and the judge expressed views on this at paragraph 32 of the determination. The appellant had provided an entry from a register showing that such a company existed and in the absence of compelling evidence to the contrary, the judge did not believe that mere supposition over the invoice was sufficient to conclude that the document was false and hence did not believe the application should be refused on the basis of using a forged document. The Secretary of State challenged this on the basis that the judge had not properly addressed the concerns set out in the refusal letter and permission was granted on that basis and I have heard helpful submissions first from Ms Isherwood on behalf of the Secretary of State reiterating and developing the points made in the grounds of appeal and also from Ms Daykin.
5. It is said on behalf of the appellant that first of all, contrary to what the refusal letter says, there is a company name detailed – Solicitors Legal Services Limited. As regards the spelling mistake that is a misspelling of between (batween) and it is said that it was the kind of mistake anyone could make and the third point on which perhaps most reliance is placed by the Secretary of State is the telephone number stated which it is said in the refusal letter that although an area code of 0207 was given this was introduced until 22 April 2000 whereas the date of the invoice is 3 March 1999. The response in relation to that point is evidence that was in the appellant’s bundle to show that since 1999 both 0207 and 0208 prefixes had been used London-wide without geographical significance.

6. The question is whether therefore bearing these matters in mind the judge was entitled to conclude as he did at paragraph 32. The argument on behalf of the Secretary of State in this regard is that it was relevant to the credibility of the claim as a whole, in particular that it showed that his character and conduct was not desirable to the United Kingdom and he did not meet the requirements of the Rules with reference to paragraph 276B to C.
7. Although the judge could I think have gone into more detail in addressing the specific provision in this regard than the way in which he did, as I have just cited in assessing this evidence and could have more helpfully, I think, referred to the reasons why in more detail, he was satisfied that the invoice did not prejudice Mr Rafiq materially.
8. I am satisfied that the evidence before him was such as to justify the overall conclusion that he came to and the supposition over the invoice was not sufficient to conclude that it was false. I think there is force in the points made by Ms Daykin in this regard. The judge was clearly aware that the burden was on the Secretary of State and was not satisfied that the burden in that regard had been established. Clearly he was satisfied with the volume of oral evidence he received for the various reasons that he set out at paragraphs 29 to 31 of the determination and I consider that overall he was entitled to conclude as he did in allowing the appeal under the Rules and the allowing of the appeal on that basis is therefore maintained.

Signed

Date

Upper Tribunal Judge Allen