



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: AA/08415/2013

THE IMMIGRATION ACTS

Heard at Glasgow  
on 14 July 2014

Determination Sent

Before

UPPER TRIBUNAL JUDGE MACLEMAN

Between

HAH

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

For the Appellant: Mr T J Ruddy, of Jain, Neil & Ruddy Solicitors  
For the Respondent: Mrs S Saddiq, Senior Home Office Presenting Officer

An anonymity order remains in force

DETERMINATION AND REASONS

- 1) The appellant, an Afghan citizen, appeals against a determination by First-tier Tribunal Judge Doyle, promulgated on 17 October 2013, dismissing his appeal on asylum and all other grounds.
- 2) At the time his appeal was heard the appellant was neither by his own assertion nor by assessment carried out on behalf of the respondent a minor, so nothing turned directly on his age. The judge said at ¶ 15 that he found the evidence about age “entirely neutral” and not determinative of the appeal.
- 3) The main point advanced in the grounds of appeal and in submissions to the Upper Tribunal was as follows. It was crucial to reach a decision on age because (a) it went to the extent to which the appellant was credible (he having been consistent about his age

from the outset) and (b) if believed on that point, then when he gave his initial evidence he was only 15 years old, and considerable allowance should have been made before adverse inferences were drawn from conflicts between his earlier and later statements. There had been lengthy submissions in the First-tier Tribunal on errors in the age assessment process, but these were not reflected in the determination. Even if the judge was entitled to find that he could make no finding one way or the other, he failed to give the appellant the proper benefit by taking a less critical view of the (acknowledged) conflicts in his evidence. The judge could not properly both be neutral on the appellant's age and critical of those conflicts. The point was so material that it might have led to a different overall conclusion, and a fresh hearing of the appeal should be directed.

- 4) Mrs Saddiq in response said that the judge was right to think that age was not a determinative issue, and was entitled to find himself unable to resolve the 2 year difference between the appellant's claim and the assessment. However, she accepted that much of the determination was based on comparing what the appellant said at his initial interview and what he said later at substantive interview and further evidence, and that the judge did not allude to the appellant's age in evaluating that evidence.
- 5) I reserved my determination.
- 6) The judge left the competing evidence about the appellant's age entirely out of account. That was a largely favourable outcome for him, because no adverse inferences were drawn on a matter which might have been given some significance against him. That conclusion having been reached, I do not think the judge needed to say more about the criticisms of the age assessment. (If that omission was an error, it was one the respondent might complain about, not the appellant.) The only flaw to which it might conceivably give rise is if the judge then went wrong by treating the appellant as being as old as the respondent said he was in 2007 (17) rather than as how old he said he was (15). His relative youth was a point in plain view, and the judge had said in effect that he was not taking him to be 17 rather than 15. No doubt the younger a person is, the more allowance has to be made for shortcomings in his evidence, but the grounds go too far in seeking to make this critical to the credibility assessment.
- 7) The rest of the grounds amount to very little. The judge is criticised for the comment that the appellant "managed to remain lost for 2 years", which is said to be erroneous because the appellant admitted that he absconded. I find it difficult to see the difference between absconding and remaining lost in this context. I do not think that the judge's phrasing implies some point of distinction adverse to the appellant. It is also said that the judge overlooked the appellant's explanations, but no explanation of any significance is referred to. It is to be assumed that the judge took account of evidence before him whether specifically rehearsed in the determination or not.
- 8) The credibility assessment (to be found in particular at ¶ 15(j) to (p)) is based on contradictions, implausibilities, inconsistencies and behaviour designed to conceal information and likely to mislead. The determination has to be read fairly and as a

whole. As such, it is a more than adequate explanation to the appellant of why his appeal failed.

- 9) The determination of the First-tier Tribunal shall stand.

A handwritten signature in black ink that reads "Hugh Maclemon". The signature is written in a cursive style with a large, stylized initial 'H'.

16 July 2014  
Judge of the Upper Tribunal