



**Upper Tribunal**

**(Immigration and Asylum Chamber)**

**Appeal Number: AA/06835/2015**

**THE IMMIGRATION ACTS**

**Heard at Field House**

**On 4 January 2016**

**Decision and Reasons**

**Promulgated**

**On 18 January 2016**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE HUTCHINSON**

**Between**

**A M A**

**(ANONYMITY ORDER MADE)**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr J. Rendle, Counsel, instructed by Wai Leung Solicitors

For the Respondent: Mr L. Tarlow, Senior Home Office Presenting Officer

**DECISION AND REASONS**

1. This is an appeal by the appellant against the decision of the First-tier Tribunal dismissing the appeal of Mr A.MA, a claimed citizen of Syria against the respondent's decision to refuse his application for asylum and to remove him from the UK.
2. Pursuant to Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 (SI 2008/269) I make an anonymity order.

## Background

3. The appellant claimed to have left Syria in August 2014 and travelled clandestinely to the UK arriving on 22 September 2014 when he claimed asylum.
4. The respondent, in the Reasons for Refusal letter dated 2 April 2015, did not accept that the appellant is a Syrian national. Whilst it was accepted that the appellant answered a number of questions correctly at interview in relation to Syria it was asserted that this information is openly available through a brief internet search and the respondent asserted that many of the appellant's responses were either inaccurate or incorrect. In addition the respondent relied on the linguistic origin identification report prepared by Verified AB dated 8 December 2015 which points strongly to the conclusion that the appellant is from Egypt and not Syria.
5. The appellant appealed. Judge of the First-tier Tribunal Hembrough dismissed the appeal on all grounds. The appellant sought permission to appeal to the Upper Tribunal on the grounds that: 1. the judge had erred in relation to his consideration of the appellant's identity documents; 2. The judge's findings in relation to the appellant's literacy were flawed; and 3. The judge had erred in placing weight on the language report, given that the findings of the two purported experts were contradictory.
6. Permission was granted on the basis that although the judge did not arguably err and made reasoned findings, it may be arguable that the Verified AB report contained contradictory findings.
7. At the hearing before me, Mr Rendle conceded that grounds 1 and 2 could not succeed if ground 3 was found to be without merit. Mr Rendle expanded on his grounds of appeal and pointed out that the two language analysts had only been commissioned by Verified AB since 2014 and it was unclear whether this was their first report. Only the first analyst was recorded as having undergone and passed testing. It was Mr Rendle's submission (and indeed this was recorded as his case before the First-tier Tribunal) that the report at paragraphs 2 to 3 sets out a number of both consistencies and inconsistencies with the claimed linguistic community in the Damascus area (where the appellant claimed he was from) before reaching the conclusion that the analysis clearly suggests that the results obtained 'most likely are inconsistent with the linguistic community as stated in the hypothesis' (Damascus area, Syrian).
8. Turning then to the assessment of the alternate linguistic community, (Egyptian) Mr Rendle was of the view that there was nothing in that assessment at paragraph 4 of the report to mirror the conclusions at paragraphs 2 and 3. It was Mr Rendle's submission that, given that at 2 and 3 there were some consistencies with the claimed linguistic

community being from the Damascus area, the analysis at 4 of the alternate linguistic community of Egypt ought to likewise have contained both consistencies and inconsistencies. However that assessment noted that the appellant's language was only consistent with being from the linguistic community in Egypt, with no inconsistencies at all. It was therefore Mr Rendle's contention that there were two very different assessments of the same piece of speech and on that basis the report cannot be relied on.

9. Mr Rendle relied on his analogy in the grounds of appeal that if a French and Italian analyst were to look at the phrase 'Mamma mia! C'est la vie' it would be anticipated that they would both find one consistent and one inconsistent element with their own vernacular. Although Judge Hembrough found, at [60] that 'I do not think that there is any inconsistency in this given that the Egyptian analyst does not profess to have any expertise in the morphological and syntactical features of the Arab dialect as spoken in Damascus' it was Mr Rendle's submission that this missed the point. Relying on his example in the grounds, he submitted that it would be immaterial if the French analyst had no knowledge of the Italian language, it would suffice to find that 'Mamma mia' were not French words.
10. I did not find any merit in this argument: the judge made detailed and closely reasoned findings in relation to the appellant's credibility in general and specifically in relation to the linguistic analysis report from paragraphs [40] to [62] of the decision. The judge properly directed himself at paragraphs [55] and [56] in relation to the limitations of linguistic reports and set out guidance both from the Upper Tribunal in RB (Linguistic evidence - Sprakab) Somalia [2010] UKUT 329 (AC) and from the Supreme Court in MN and KY [2014] UKSC 30. The judge notes that he was referred by Mr Rendle to the observations in both of the above decisions as to the limitations of such reports 'which were not to be regarded as determinative'. The judge further indicated (at [58]) that had also taken into account that the Verified AB report contained a section headed 'Limitations' and 'which sets out a variety of factors which may mean that the results of analysis should be treated with extra caution. Indeed it was with this in mind that I was prompted to enquire as to whether the Appellant or any member of his family had travelled outside Syria' (the judge recorded at [37] that the appellant stated that none of his family members had ever travelled outside Syria).
11. Judge Hembrough considered Mr Rendle's submissions that the analysts 'seemed to be recently in post' and the submission that their findings were inconsistent (for the reasons set out again by Mr Rendle before me and summarised at paragraphs 7-9 above). Judge Hembrough found at [60]:

'I do not think that there is any inconsistency in this given that the Egyptian analyst does not profess to have any expertise in the

morphological and syntactical features of the Arab dialect as spoken in Damascus. I find the conclusions of the report to be clearly stated and consistent. Put shortly the analysis supports the hypothesis that the appellant belongs to a linguistic community that occurs in Cairo with certainty.'

12. In finding no inconsistency between the two language analyses I am not satisfied that Judge Hembrough made any error. Mr Rendle conceded that he was not himself an expert in language analysis and did not offer any alternative expert view (where such ought to have been available) which might support his claim both before the First-tier Tribunal and the Upper Tribunal that there was an inconsistency in the findings. There was nothing before either Tribunal that supported a finding that the fact that one analyst found some consistencies as well as (mainly) inconsistencies with the dialect of Damascus meant inevitably that the second analyst had to make similar findings of both consistencies as well as inconsistencies with Egyptian Arabic. I find his submissions on this point to be entirely speculative. In addition the analogy to a French and Italian analyst assessing a piece of speech containing both languages is unhelpful, not least because the analysis in the appellant's case relates to the same language, Arabic, but different dialects.
13. I further noted, at 3.3.1 of the assessment in the language report in relation to the claim that the appellant was from a linguistic community that occurs in Damascus area, that the general comments indicate that: 'the analyst noted inconsistencies in the realization of some traits, hesitation and unnatural pauses in the person's speech. All of these might suggest that the person is attempting to mimic a dialect other than his own'.
14. Although Mr Rendell dismissed this paragraph as a generic 'cut and paste' there was again no evidence for this assertion and it is clear in reaching his finding at [60] that there was no inconsistency, the judge took into consideration all aspects of the report in the round including, as set out above, the finding that the analyst was of the view that the appellant's speech might suggest he was attempting to mimic another dialect. It may well be that this could explain why there were some consistencies with Damascus dialect.
15. In finding, at [60] that the Egyptian analyst does not profess to have any expertise in the morphological and syntactical features of the Arab dialect as spoken in Damascus, the judge made findings open to him on the evidence. It was not in any way irrational for the judge to conclude that Egyptian analyst did not have expertise in the dialect spoken in Damascus.
16. In the alternative I am satisfied that any error, in failing to explicitly address Mr Rendell's point that given the consistencies noted in the first analysis, there had to be 'mirror' inconsistencies in the second analysis, is not material. The judge considered the report in its entirety

and in the context of all the evidence. As noted above there was no evidence to support Mr Rendell's hypothesis as to what should and should not have appeared in each report. Taken to its logical conclusion it would mean that any such language report could not be relied on unless both analysts make in effect identical findings. That cannot be right, particularly as both analysts in this case were assessing the same extract but for different dialects.

17. In relation to Mr Rendell's complaint as to the alleged lack of expertise of the two analysts, the judge clearly considered this submission (as noted at [59]) and in finding the 'conclusions of the report to be clearly stated and consistent' and in stating that, in relation to the report, he had had regard to the entire content in the round and was 'mindful of its limitations', implicitly rejected this submission. I note that paragraph 4 of the 'Method and limitations' section of the report, relied on by the judge, it was indicated that:

"the analyst selection tests are designed to gauge several distinct aspects of suitability in the candidate. In addition to being able to discriminate one's own dialect and instances of particular features of it/ aptitude for abstract reasoning, integrity and phonetic awareness is sought."

18. It was clear therefore that analysts had been subject to selection tests, as set out above and in seeking to dispute their experience Mr Rendell's submissions amount to no more than a disagreement with the judge's findings which were detailed and plainly open to him.

19. I am not satisfied therefore that there is any merit in ground 3.

20. In relation to grounds 1 and 2, I share Mr Rendell's view that these grounds were 'going nowhere' if ground 3 did not succeed.

21. The judge did not consider the language report in isolation, but in the round and gave clear reasons for not finding the appellant credible in relation to not bringing his claimed Syrian passport and birth certificate with him, at [52] and in relation to his claimed illiteracy at [45] to [47]. The grounds were again speculative and amount to a disagreement with the weight placed by the judge on the evidence before him.

22. In addition to these matters and the weight the judge placed on the language analysis, the judge also set out a number of other negative credibility findings including in relation to inconsistencies in the appellant's evidence as to why he allegedly did not attend school, the appellant's inability to name a single Syrian television programme and his lack of knowledge in relation to a number of Syrian-specific issues which the judge found, at [47] 'was lacking when it came to the finer detail'. The judge also made negative credibility findings in respect of the appellant's evidence in relation to his parents and that the appellant had not called other witnesses who knew him, whose

credibility had been accepted by the Home Office, to support his appeal.

23. Therefore, even if there were any error in the judge's consideration of the issues set out in Grounds 1 and 2, and for the avoidance of doubt I am not satisfied that any has been any identified, such would not be material given the weight of the remainder of the judge's carefully reasoned findings (including as to the language report) which support his clear finding that the appellant is from Egypt and not Syria.

Decision:

24. The making of the decision of the First-tier Tribunal did not involve the making of an error on a point of law and shall stand.

**Unless and until a Tribunal or court directs otherwise, the appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify him or any member of their family. This direction applies both to the appellant and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.**

Signed:

Dated: 11 January 2016

Deputy Upper Tribunal Judge Hutchinson