



**Upper Tribunal  
(Immigration and Asylum Chamber)**

Appeal Number: AA/08934/2015

**THE IMMIGRATION ACTS**

**Heard at North Shields**

**Decision & Reasons  
Promulgated**

**On 16 March 2016**

**On 12 April 2016**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE NORTON-TAYLOR**

**Between**

**A S A  
(ANONYMITY DIRECTION MADE)**

Appellant

**and**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Miss R Pickering, Counsel, instructed by Parker Rhodes  
Hickmotts

For the Respondent: Mr C Dewison, Home Office Presenting Officer

**DECISION AND REASONS**

**Introduction**

1. This is an appeal by the Appellant against the decision of First-tier Tribunal Judge Fisher (the judge), promulgated on 5 October 2015, in which he dismissed the Appellant's appeal. That appeal was against the Respondent's decision of 27 May 2015, refusing a protection claim made on 9 February 2015.

2. The Appellant is a Yemeni national who was previously resident in UAE.

### **The judge's decision**

3. The judge found that the Appellant's UAE residence permit had not in fact been revoked by the authorities there, as claimed (paragraph 20). There was no country information to suggest that the UAE and Yemeni authorities provided strong support to each other (paragraph 21).
4. Having noted the Presenting Officer's position that the Respondent would seek to return the Appellant to UAE only, the judge found that the residence permit for that country had lapsed due to the Appellant's time away. However, he found that the Appellant could renew the document without great difficulty (paragraph 23). The Appellant's credibility was damaged by his failure to disclose information to the United Kingdom immigration authorities (paragraph 24). In paragraph 25 the judge found that the Appellant had had "some involvement with, or support for" the Southern Movement. The claimed detention in Yemen was rejected, as was the claimed escape from that country to UAE. It was concluded that the Appellant was not at risk in either potential removal destination. An argument based upon Article 15(c) of the Qualification Directive was rejected in paragraph 27.

### **The grounds of appeal and grant of permission**

5. In her original concise grounds, Miss Pickering argued that the judge erred in speculating that the Appellant could renew his UAE residence permit and in failing to give reasons for rejecting the claimed detention in Yemen.
6. Permission to appeal was granted on the first ground only by First-tier Tribunal Judge Dineen on 29 October 2015.

### **The hearing before me**

7. Miss Pickering applied to rely on ground two of her original grounds. There was no opposition to this from Mr Dewison and I granted the application.
8. Miss Pickering also sought to amend her grounds by adding a third, based upon Article 15(c). I refused this application. First, there was no reason why it had not been included in the original grounds. Second, much of the evidence relied on by Miss Pickering in support of her putative argument post-dates the judge's decision. Third, in any event, it appears as though the potential for application Article 15(c) relates to the north of Yemen, whereas the Appellant originates from the south.
9. Miss Pickering relied on her two grounds. There was no evidence before the judge as to how the Appellant would renew the permit. It was not that straightforward to do. In respect of ground two, there were no reasons on the detention issue. That was a material error. I was referred to paragraph 20 of the RFRL.

10. Mr Dewison relied on the Respondent's rule 24 response. The Appellant's core account had been rejected by the judge and so the detention was also rejected. The Appellant left Yemen on his own passport and was not ejected from the country. In terms of the UAE permit, there was no evidence from the Appellant to show why he could not renew it. He had family there and had had permits in the past.

### **Decision on error of law**

11. There are no material errors in the judge's decision.
12. The judge was entirely justified in findings that the UAE permit had not been cancelled or revoked by the authorities. That finding is not challenged by the Appellant.
13. The judge was correct to find that the permit had lapsed because of the Appellant's time away from the UAE. In my view, it was open to the judge then to conclude that the Appellant would be able to renew the permit, or at least conclude that there were no significant obstacles in his path, given his previous residence, the presence of his family in UAE, and the lack of any adverse interest in him by the authorities.
14. The flaw in Miss Pickering's argument is that it was for the Appellant to adduce evidence of any material difficulties in renewing the permit. He had a permit previously, which had not been revoked. There was no indication on the face of the evidence before the judge that problems would ensue if and when a renewal application was made. Miss Pickering suggested that such problems might exist, but there is nothing in the grounds to that effect, and in any event I am not satisfied that relevant evidence was cited to the judge.
15. Even if it were said that the judge was speculating about the renewal of the permit, there is no material error because the burden rested with the Appellant.
16. In light of the above and the judge's findings as a whole, it was open to him to conclude that there was no risk to the Appellant on return to UAE. That country was of course the Appellant's former place of habitual residence. On this basis alone, the Appellant's appeal was going to fail (the renewal of the UAE permit being an administrative matter going only to the issue of feasibility of return there).
17. Turning to the detention issue. It is right that there are no express reasons given for the rejection of the claimed detention, and this is an error. Is it material?
18. I agree with Mr Dewison that the judge had rejected the other specific core elements of the account, such as the manner of his departure from Yemen: on his own passport and without being expelled by the Yemeni authorities, or being of adverse attention to the UAE authorities. The claimed detention was part and parcel of a fabricated account, and the

judge rejected the entirety of the *specific* account put forward to her, including the detention.

19. It is of course right that the judge accepted that the Appellant had had “some involvement with, or support for” the Southern Movement. This is a somewhat generalised finding. It does not follow that as a result of the finding, the specific aspects of the claimed detention and escape, etc., therefore became credible. The nature and level of Southern Movement support is not set out in any detail. That lack of particularity is not challenged in the grounds. Having looked at the country information (including that cited in paragraph 20 of the RFRL), there is nothing to indicate that those who are simply supporters are routinely targeted, or indeed that there is necessarily a reasonably likelihood of this occurring.
20. In view of the above, I conclude that the error is not material.
21. The Appellant’s appeal to the Upper Tribunal is dismissed and the decision of the judge therefore stands.

### **Anonymity**

**22. Pursuant to Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, I make an anonymity order. Unless the Upper Tribunal or a Court directs otherwise, no report of these proceedings or any form of publication thereof shall directly or indirectly identify the original Appellant. This direction applies to, amongst others, all parties. Any failure to comply with this direction could give rise to contempt of court proceedings. This direction has been made in order to protect the Appellant from serious harm, having regard to the interests of justice and the principle of proportionality.**

### **Decision**

**The making of the decision of the First-tier Tribunal did not involve the making of an error on a point of law.**

**The decision of the First-tier Tribunal stands.**

Signed

Date: 31 March 2016

H B Norton-Taylor  
Deputy Judge of the Upper Tribunal

### **TO THE RESPONDENT** **FEE AWARD**

No fee is paid or payable and therefore there can be no fee award.

Signed

Date: 31 March 2016

Judge H B Norton-Taylor  
Deputy Judge of the Upper Tribunal