



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: PA/03790/2016

THE IMMIGRATION ACTS

Heard at North Shields
On 8th January 2018

Decision & Reasons Promulgated
On 31st January 2018

Before

Upper Tribunal Judge Chalkley

Between

SAMIR ALI AL AHMED
(ANONYMITY DIRECTION NOT MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Selway, a Solicitor

For the Respondent: Mr C Bates, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant claims to be a citizen of Syria, born on 6th November 1979. He entered the United Kingdom on 28th August 2015, having claimed to have left Syria on 25th April 2015, then claimed asylum on 16th October 2015.
2. The appellant insists that he is from Um Hosh in Aleppo. When his home area came under attack and his home was destroyed by a barrel bomb, he says that he left the area. He fears being killed in the conflict if he were to return to Syria.

3. For reasons set out in the respondent's decision letter of 5th April 2016, the respondent did not believe the appellant's account and neither did the respondent believe his claim to be a citizen of Syria.
4. The appellant appealed the respondent's decision and his appeal was heard by a First-tier Tribunal Judge at North Shields on 6th April 2017. The judge, First-tier Tribunal Judge Sills, noted that the respondent relied on a language analysis report which indicated that the appellant was not Syrian, but rather came from Egypt. The appellant gave an explanation to the respondent as to why his use of Arabic was consistent with that of an Egyptian and gave inaccurate answers to questions about Syria at his interview.
5. The judge heard oral evidence at the hearing and at paragraph 16 of his determination he considered the linguistic origin identification (LOID) report. He noted that the language analysis clearly suggests that the results obtained most likely are inconsistent with the claimed linguistic community. He noted that this was the second highest level of certainty. The report concluded that the analysis somewhat suggests that the results obtained more likely than not are consistent with the appellant being from the Cairo area of Egypt. This is the third highest level of certainty. He also noted that the report made clear that it was not of itself determinative of nationality and that linguistic and political borders do not necessarily coincide.
6. The judge observed that the report was carried out by a linguist educated to Masters level and by native speakers from Aleppo, Syria and from Cairo, Egypt. The judge said that having considered the report in detail, he considered that it was entitled to significant weight. He went on to consider the appellant's explanation for speaking an Egyptian form of Arabic and noted that the appellant relied on a Syrian individual civil record. He also noted the evidence of the appellant in relation to the knowledge of his Syrian home area and had taken account of the appellant's age when assessing the appellant's credibility, noting that he was now 19 years of age and had only been 17½ when he claimed to have left Syria.
7. The judge concluded that the LOID report, while not determinative, was significant evidence casting doubt on the appellant's claim to be Syrian. He believed the appellant's evidence of his contact with his family to be unsatisfactory and believed that the incorrect information the appellant had provided about his home area suggested he was not from that area. The judge found that the appellant had not discharged the burden of proof on him to show that he was a Syrian national and therefore dismissed the appeal.
8. The appellant challenged the appeal complaining that the judge erred firstly by not considering or following case law on language analysis reports to which he was referred including *Secretary of State v MN and YK* [2014] UKSC 30, which referred to the need to examine reports critically, secondly starting with the report and not balancing it with all the evidence, thirdly in his approach to the appellant's Syrian ID

document and fourthly his in approach to the appellant's answers to questions about Syria.

9. Mr Selway suggested that in saying as he did at paragraph 16, that the judge considered that the report was entitled to significant weight, the judge had erred in law. The report was not, he said, clearly considered by the judge and it was wrong of the judge to start with the report and then having decided that he would give it significant weight to go on to consider all the other evidence.
10. The appellant was taken by surprise when he was told of the existence of the report and he gave an explanation as to why he may have an Egyptian dialect. His father worked with an Egyptian baker and the appellant had travelled to the United Kingdom with Egyptians he met on his travels. He had picked up their dialect. Mr Bates reminded me that the burden of proof was on the appellant to prove his nationality. The report relied on by the Secretary of State was prepared by experienced and qualified linguists and two analysts. However, the Secretary of State does not rely solely on the LOID report. In dealing with the report, one of the authors was a qualified linguist and the other two were experienced speakers. The judge was entitled to have regard to the report and to have regard to the answer given by the appellant when asked to explain his Egyptian dialect.
11. The appellant said it was because of an Egyptian baker working with his father and because he had travelled with Egyptians from Syria to the United Kingdom that he had acquired an Egyptian sounding dialect. The judge did not believe that it could be remotely likely that the appellant could have been so strongly influenced by Egyptians he met travelling from Syria to the United Kingdom or by a colleague who worked with his father.
12. The appellant claimed that he had been in contact with his brother who lived in Jordan, but was not in contact with his family in Syria. His brother in Jordan was in contact with his family in Syria and the judge could not understand how the appellant's brother could have contact with family in Syria, when this was not possible for the appellant. His explanation was that the family his parents were staying with had a special SIM card and that the brother was able to call his parents. He had been told, however, it was nearly impossible for the appellant to contact them. The appellant then said that it was his parents that called the appellant's brother, but that the brother had not given his parents the appellant's number as they would not be able to contact him. The judge did not accept the evidence, believing that the appellant changed his account and offered no explanation as to why international calls were possible between Syria and Jordan, but not between the UK and Syria. He believed this to be damaging to the appellant's credibility.
13. The Presenting Officer pointed out that the judge applied *Tanveer Ahmed v Secretary of State for the Home Department** [2002] UKAIT 00439 to the Syrian individual civil record and noted that the appellant's evidence as to how he obtained this document was muddled. He concluded, as he was entitled to, that the appellant's account of

how he received the document was unsatisfactory. He clearly did not believe it was a document on which he could place any reliance following his application of *Tanveer Ahmed*. The appellant demonstrated a vague knowledge of Syria and his claimed home area. Some of the answers were correct, some were wrong, and some could not be verified. His claim that ISIS had captured the town of Um Hosh in July 2014, was wrong because it was not actually captured until August 2015. The judge believed this to be a significant inconsistency. The judge has given cogent and logical reasons why he did not accept the appellant's claim and properly took into account the appellant's age in making his credibility findings.

14. Mr Selway suggested that the LOID report was simply "not up to the job" and it was not conclusive and should not have been given the significant weight the judge decided to give to it. I reserved my determination.
15. It is for an appellant to prove his nationality. The appellant claims to be from Syria. If he is from Syria then, at the moment, he will be successful in his claim to asylum. However, the respondent concluded that the appellant was not from Syria. The judge demonstrates at paragraph 16 of his determination that he has considered the LOID report in some detail and the judge notes that the report itself makes it clear that it is not determinative of nationality and that linguistic and political borders do not necessarily coincide. The judge went on to consider the appellant's explanation for speaking with an Egyptian dialect. He did not believe the appellant's explanation. He was entitled to make the finding he did that it was highly unlikely that the appellant would have adopted this form of speech from his father's colleague or that he would have been so strongly influenced by Egyptians he met travelling from Syria to the United Kingdom.
16. The judge then went on to consider the appellant's contradictory evidence concerning contact with his brother and his family. Initially the appellant claimed that his brother was able to call his parents, then he stated that it was his parents who were able to call his brother. He was not, however, able to explain why international calls were possible between Syria and Jordan, but not between the United Kingdom and Syria. Again, these are findings which I believe the judge was entitled to make on the evidence before him.
17. The appellant relied on a Syrian individual civil record and the judge noted that there were no obvious anomalies with the document and that it could be a reliable document. However, the appellant's evidence as to how he obtained the document was muddled and it was for him to show that it was a document that could be relied upon.
18. The judge explained in some detail that the appellant first claimed that his brother had sent it to him from Syria. He then said that it was his friend Aziz in the United Kingdom who obtained the document for him when he went back to Syria. He then said that it was Aziz's brother who sent the document to Aziz in Birmingham from

Damascus. The judge noted that this account was muddled and that there was no evidence from Aziz either in the form of a letter or in the form of oral evidence.

19. Having rejected the appellant's account of only being able to have contact with his family, the appellant explained that the reason why his family were not able to send him the document was that they could not afford to do it. However, no evidence was placed before the judge to show that it would not have been possible to send money to the appellant's family either from the United Kingdom, from Jordan or from within Syria and nor was there any explanation as to why it could not have been sent using the internet.
20. The judge believed that the appellant's explanation as to why the family could not have sent the documents to the appellant was inadequate. That was a finding open to him.
21. The appellant demonstrated a lack of knowledge of Syria and his home area. He was only 17½ at the time he left Syria, but one would have expected him to know whether his home town was in the hands of ISIS in July 2014 or August 2015. The appellant claimed that the River Nile ran through Syria and the judge found it curious that the appellant should mention the Nile River. He then said that he meant Nile Street and again the judge believed that this evidence affected the appellant's credibility.
22. In paragraph 24 of the judge's determination, he states that he considers that the LOID report, while not determinative, is significant evidence casting doubt on the appellant's claim to be Syrian. He did not accept the criticisms of the report to be legitimate. It is, however, clear to me that the judge was influenced not simply by the report but also by his other seriously damaging credibility findings.
23. I believe that the judge was entitled to find as he did; he was cautious in his approach to the LOID report and when looking at all the evidence in the round he concluded at paragraph 24 that the appellant had not discharged the burden on him to show that he was a Syrian national.
24. I do not believe that the making of the determination by First-tier Tribunal Judge Sills involved the making of a material error of law. I uphold the determination. This appeal is dismissed.

No anonymity direction is made.

Richard Chalkley

Upper Tribunal Judge Chalkley

TO THE RESPONDENT
FEE AWARD

I have dismissed the appeal and therefore there can be no fee award.

Richard Chalkley
Upper Tribunal Judge Chalkley

Dated 30 January 2018