



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

Appeal Number: PA/10425/2016

THE IMMIGRATION ACTS

**Heard at London
On 16 February 2018**

**Sent to parties on:
On 23 March 2018**

Before

UPPER TRIBUNAL JUDGE HEMINGWAY

Between

**MAA
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant:

Ms R Head (Solicitor)

For the Respondent:

Mr P Duffy (Senior Home Office Presenting Officer)

DECISION AND REASONS

1. This is the claimant's appeal to the Upper Tribunal, brought with the permission of a Judge of the First-tier Tribunal, from a decision of the First-tier Tribunal (hereinafter "the tribunal") which it made after a hearing of 11 October 2017 and which was sent to the parties on 16 October 2017. The claimant had, on 23 August 2016, been refused international protection. The tribunal had dismissed his appeal on asylum and humanitarian protection grounds. However, it had allowed the appeal on human rights grounds under Article 8 of the European Convention of Human Rights. The claimant was dissatisfied with that outcome, believing himself to be entitled to either a grant of asylum or a grant of humanitarian protection or alternatively to a grant of leave under Article 3 of the ECHR.

2. I note that the claimant was granted anonymity by the First-tier Tribunal. The question of whether or not that grant ought to be continued by the Upper Tribunal was not raised by either party before me. Nevertheless, on the assumption that the tribunal had good reason for granting anonymity and since no one sought to persuade me to depart from the status quo, I have decided that the grant should indeed continue.

3. Coming on now to the background circumstances of the case, the claimant is a national of Afghanistan. He was born on 1 January 1994. There has been some dispute as to precisely when it was that he entered the United Kingdom but, whenever that was, it does appear that he entered in a clandestine manner. According to the Secretary of State he was in fact encountered by the United Kingdom (UK) authorities on 22 November 2012. Quite shortly after that, indeed on 5 December 2012, he claimed asylum. In so doing, he said that he had previously lived with his family in a village in Baghlan Province. Some years ago his uncle had been killed and his father, after a long search, had located the uncle's killer and had murdered him. But the family of the man murdered by the claimant's father were powerful and influential. They sought revenge and his father fled. Then in October 2007 the claimant's family home was the subject of an attack. Bombs were thrown at the house and the claimant received shrapnel injuries. His sister was killed in the incident. That represented one source of difficulty for the claimant. Further, the Taliban had forced the claimant to assist them. He had been made to undertake weapons training at a camp and on one occasion had been forced to wear a suicide jacket. The intention was that he would carry out a suicide attack but this could not take place because some vehicles intended to be the target of the attack had to divert after encountering a check point. The claimant says that eventually he was able to escape from the Taliban camp and, after doing so, he contacted a maternal uncle in Kabul who arranged for an agent to take him out of Afghanistan. He thinks that it was around mid-2008 when he left Afghanistan. He says that the authorities in Afghanistan now have an adverse interest in him because they have found out about his previous, albeit forced, involvement with the Taliban and wish to arrest him in consequence of that.

4. As to the claimant's domestic circumstances in the UK, he has said that he lives with his younger brother (born on 1 January 2003) and acts as a father figure to him.

5. The Secretary of State did not accept that the claimant had given a truthful account of events in Afghanistan. It was accepted that he has physical injuries but it was not accepted that they had been acquired in the way the claimant had contended. So, thought the Secretary of State, those injuries did not assist him in making out his case.

6. As has already been mentioned, the claimant appealed to the tribunal. Both parties were represented at the hearing. The tribunal received oral evidence from the claimant and from one

witness a Mr Taj Khan. Mr Khan's evidence concerned assistance it was said he had given to the claimant after he came to the UK. That evidence did not relate at all to the claimed events in Afghanistan. The tribunal had some written expert evidence before it. There were three reports by Dr Giustozzi one of which specifically addressed the authenticity or otherwise of "the police document". There was a report of 31 January 2014 prepared by Dr Seddon which was also concerned with the authenticity of documents relied upon by the claimant. There was a report of 3 December 2015 from one Dr McCoubrie which was concerned with physical and mental health issues.

7. Like the Secretary of State, the tribunal disbelieved the claimant with respect to the claimed events in Afghanistan. In explaining why, it addressed the documentary evidence and the oral evidence it had heard and said this:

"Findings of Fact

Documents At E

35. I initially considered the documents in conjunction with the background to the Appellant's account to ascertain whether they were consistent with his claim. I approach my consideration of the documents in accordance with the principles set out in **Tanveer Ahmed [2002] UKIAT 00439**. Thus, the issue for me to resolve is whether they are documents upon which reliance should be placed having regard to their form and contents. Have they been properly issued and are the contents true? They are all the type of document which can be easily fabricated. I had the benefit of seeing the original documents and can thus accept the Respondent's submission that they appear to be scanned documents for example the majority of the letter at E7 appeared to be on scanned/photocopied paper save that there was some writing in blue Biro and this was the position with regard to E9. The document at E11 appeared to be photocopied/scanned save that the thumbprints were in purple ink. This does not mean that the documents are not genuine and I consider them in further detail in line with the expert evidence and the credibility of the Appellant's account.

36. However, I am able to make some firm initial findings with regard to the document at E11. Quite clearly the contents of that document are not true as the contents are not consistent with the Appellant's account and this was conceded by his representative. The document does not mention the Appellant's claim that one of his sisters was killed nor does it mention he was injured. It says that his father was injured but it is the Appellant's claim that his father was not at home (which did change to probably not at home). The injuries described (loss of hands, legs and eyes) is not consistent with the Appellant's evidence. The claim that the Appellant was left with no one is plainly untrue as on his own account he had at least five relatives at that time (including mother, father, uncle). I have thus considered why the Appellant relies on a document whose contents are plainly wrong when I have considered his account in the round and whether it thus damages his account.

37. With regard to document E2, E4, E6 these are consistent with the Appellant's account.

38. The documents at E8 and E10 are consistent with the Appellant's account but they are said to be letters by the police and are both incomplete and do not include the summons which the Appellant says was issued. Furthermore, they were obtained from the Appellant's mother and there was no satisfactory explanation as to why she would have police correspondence of this nature.

Dr McCoubrie's report 3 December 2015

39. The report is comprehensive and well written. It follows on from a careful and detailed examination. I accept the findings made at paragraphs 61 and 62 that the scarring which is detailed at D12 is consistent with the Appellant's account of being injured in a bomb blast. It is the Appellant's account that the injury to his left groin was initially dressed at home by a local nurse and then few days later by a doctor visiting his uncle's house in Kabul. The expert concludes that he does not think that the repair could have been undertaken as alleged by the Appellant because (paragraph 62):

- The wound is surgically very neat
- The scrotal sac is empty – which would have required a general anaesthetic or an accurate local anaesthetic
- The procedure was undertaken by a highly competent surgeon

40. My conclusions having considered the expert's report is that the Appellant sustained injury from a bomb blast but his explanation as to how he was treated is not consistent with the expert evidence.

41. This is significant because it is the Appellant's account that he could not attend a hospital because he would be perceived to be with the Taliban but I find that his injuries were dealt with in a hospital and thus, adopting the Appellant's reasoning he would not be perceived to be with the Taliban.

42. Further it is obvious from reading the whole report (including the biographical details of the author) that Dr McCoubrie is a very experienced expert who has written a careful and detailed report. This finding is relevant because the Appellant now says that Dr McCoubrie has made two errors in the report, firstly the Appellant says the argument resulting in his uncle's death did not happen when he was eight as detailed in paragraph 5, secondly, he says that the bomb blast was in 2007 and not 2008 as set out in paragraph 7.

43. With regard to the latter the Appellant gives a further explanation. He said that the doctor specifically asked him whether there were pains in his body in 2008 and he said yes. It is the Appellant's case that the doctor almost randomly selected 2008 as a year to ask about and then should have written that the Appellant was in pain in 2008 (and should not have written that the bomb blast occurred then). I do not accept the Appellant's evidence in this regard. The doctor is well-versed in taking a detailed history. It is inconceivable that the Appellant would not be in pain at the time of the bomb blast (and the pains only became apparent in 2008 as submitted by his representative) because he sustained a very significant injury to his left groin necessitating the surgical removal of his testis.

44. There is thus an inconsistency about the date of the bomb blast. The Appellant's representative submits that he has been consistent throughout with regard to the date but this may not be correct. In his interview at question 27 he said that the bomb blast was in October 2007 yet he relies on a letter from the village elders at E11 which his solicitors say confirmed the bomb attack happened on 8 August 2008 (see D2), although I am subsequently told that the translation is wrong and should have been 8 July 2008 (see D24 4.16).

45. With regard to the first discrepancy at paragraph 5 this puts the date of the commencement of the blood feud and his father joining the Taliban and moving away when the Appellant was eight i.e. in 2002. However, the Appellant was clear in his oral

evidence that his paternal uncle was killed in mid-2007. (a discrepancy of 5 years). The Appellant says that the doctor was wrong when he recorded this event as happening in 2002. I find it is unlikely that the doctor would have got this wrong given his experience and the fact that he was making an assessment of the Appellant's mental health and the date that his father left the family home would have been of some significance in that assessment.

46. Furthermore, this report is dated 3 December 2015 and the Appellant's representatives have had ample opportunity of going back to Dr McCoubrie and asking him to consider his notes and amend the report if he accepts that it is inaccurate. It is unsatisfactory that the Appellant gives evidence that there are material errors in the report but his representatives do not appear to have given Dr McCoubrie the opportunity to comment.

47. There are of course other explanations as to why these errors may have occurred. In his oral evidence the Appellant suggested that it could have been interpretation error. I find this to be unlikely. I know that dates are different in the Afghan calendar but an interpreter is more (not less) likely to be careful in translating them because this will be known to him. There is also the possibility that the Appellant may have got things wrong in his discussions with the doctor because of his mental health problem, he has post-traumatic stress disorder and a moderate depressive illness and would find talking about stressful events to be difficult and further he is not literate. However, when I have considered the very detailed statements the Appellant has provided in support of his appeal I do not conclude that he has given incorrect information on account of his mental health difficulties.

48. Accordingly I conclude that there are inconsistencies between the account given to Dr McCoubrie and the Appellant's oral evidence and of greatest significance is his claim as to how his left groin injury was repaired and it is not consistent with the expert evidence.

Dr Seddon's report

49. Dr Seddon has provided an expert report about the documents produced by the Appellant. I know that his Expert opinion was considered in an unconnected case by the Upper Tribunal and its shortcomings were detailed at paragraphs 172 and 173. I have seen his credentials at paragraph 1 and am not satisfied that he is suitably qualified to comment on the authenticity of the documents nor does he say for example why he knows that the format and layout is typical of notes issued by the Taliban. The fact that the Taliban refer to Afghanistan as 'the Islamic emirate of Afganistan' is not of itself enough to say that the note would have been written by them (see paragraph 4.2).

50. Dr Seddon does not give a proper explanation as to why he feels the document is genuine and authentic (4.4).

51. At paragraph 4.8 he says that the third document could not have been written when said because it is a reply to the second document but issued 10 days before. He concludes this could simply be a mistake.

52. Dr Seddon said that the letters from the police appear to be highly likely to be genuine and authentic. He does not give an adequate explanation as to the source of his expertise in this regard.

53. With regard to the elders letter he says he has never seen one like it before but that nevertheless there is no good reason why it is not genuine and authentic (4.18). Thus

although Dr Seddon concludes that this is beyond his expertise he then seeks to give an opinion about it which is neither appropriate or helpful.

54. Furthermore when I consider that Dr Seddon starts his report by describing the appellant as an Algerian national (paragraph 3.1) this causes me some small concern as to the contents of the report and further within the same paragraph there is a slightly different account as to who the Appellant's father killed. It is noted as uncle's assailant and brother whereas the Appellant's evidence for example D4 had been uncle's assailant and another man.

55. I place very little weight on Dr Seddon's report given that I am not satisfied as to his expertise in commenting on the matters commented on and there is a significant lack of detail as to how he has reached his conclusions.

Dr Giustozzi's Report (page 7 to 52)

56. Dr Giustozzi (see pages 7 to 15) and has travelled extensively to Afghanistan (see pages 15 to 17) and thus has the necessary expertise to provide expert evidence.

57. Blood feuds are very common in Afghanistan (page 18). The expert does not specifically refer to the Appellant's family being known to be involved in a blood feud. The primary target would be the perpetrator of the original offence but if he is out of reach or dead then his male relatives could become legitimate targets for revenge. This is consistent with what the Appellant says.

58. The expert refers to the tribal code at page 19 and that tribal elders will seek to negotiate settlement but do not have authority to impose settlement. Government authorities rarely intervene (page 20 and in some provinces 95-98% of justice is delivered by non-state actors. In response to questions in cross-examination the Appellant was clear that the police were involved in his family's blood feud and that they visited his home a few times and that warrants were issued and delivered for his father's arrest although they have subsequently been lost.

59. Thus, the Appellant's oral evidence is not consistent with the expert report which suggests that government authorities would rarely intervene in the case of blood feuds.

60. The expert says with few exceptions there is no evidence that the Taliban practice forced recruitment (page 20). It is of course the Appellant's account that his father joined the Taliban to escape the blood feud and protect his family i.e. forced recruitment is not alleged.

61. The report then goes into considerable detail about the type of individual that the Taliban would track down giving the example of the Haqqani network focusing on complex attacks against foreign installations and another in Kabul targeting those who cooperate with the government and foreigners (page 29). Of course, the Appellant does not fit into any of these categories.

62. The expert says and I find that the Appellant's home area Dand-e Ghor is the main pocket of support of the Taliban in Baghlan (page 24). The police provide ineffective protection to those who are at risk from the Taliban (page 31). The Appellant would be unable to relocate outside of Baghlan to avoid a threat from a blood feud (page 37).

63. The Appellant would be questioned at the airport and checks would be made to see if he was wanted for any crime in Afghanistan (page 39).

64. If the Appellant relocated to Kabul, he would find accommodation expensive and economic conditions are difficult with significant unemployment (page 45). There is a mental health hospital but it is understaffed and to be admitted a patient requires a relative to accompany him (page 46). Psychotropic drugs are readily available (page 47). Antidepressants are available (page 50).

65. Mr Mangal was instructed by Dr Giustozzi to establish the authenticity of various documents. The Respondent submitted that I should approach this evidence with some caution because Mr Mangal is not independent having worked with Dr Giustozzi before. There is no evidence before me that Mr Mangal has sought to fabricate an account because of his relationship with Dr Giustozzi although I am left in the unsatisfactory position where I do not have a statement of truth from Mr Mangal.

66. He first deals with the document as E11. I am not told that the letter is authentic. I am told that an elder was shown a copy of the letter and he confirmed that the Appellant's house was attacked by the Taliban. He specifically does not say that the letter is authentic. He does not comment on the letter at all. He does not say when the house was attacked or why. He does not say how he knows that the members of the household were injured. He does not say whether he witnessed the attack or its aftermath or whether he was an elder at the time (is probably unlikely given that his name does not appear on the letter at E11). Thus, this is of little if any evidential value.

67. Mr Mangal was then instructed in relation to a 'police document'. I do not know which police document because it is not described nor is it annexed to the expert evidence. The Appellant relies on two police documents originals at E7 and E9. I am told that officer Ibrahimkel confirmed that the letter was genuine but I am not told how he confirmed this. This is significant because the letter is dated 2nd August 2008 and he was asked to look at it over eight years later. I am not told that he checked a central database or checked it some other way, simply that he confirmed it was genuine.

68. At the hearing, I was shown the 'original' which was the document the Appellant said his friend collected from the family home and it was quite obviously a scanned/photocopied/ unclear document header which someone had then written on. This may of course be consistent with how the police in Baghlan write their letters. I do not know. The expert evidence does not provide an adequate explanation as to why the letter is genuine. He appears to have been provided with a copy of this document.

69. Furthermore, the officer is reported as saying that the police had a report that the Appellant was planning an attack. This is not apparent from the face of the documents and he gives no explanation as to how this information was known to him (as submitted by the Respondent's presenting officer). Again, this expert evidence is of limited value.

70. Mr Mangal then met with two gentlemen of the Taliban military commission. I am unclear as to what documents were given to them to authenticate. Paragraph 3 refers to 'letter' then 'document' then 'document' i.e. all singular not plural. The only sensible inference that can be drawn from paragraph 3 is that one letter was shown - indeed the sub heading is 'Taliban night letter'. However, at paragraph 5 he refers to 'letters', but then at paragraphs 6 and 7 'letter 2' is referred to. Apart from paragraph 5 'letter' is used and I therefore conclude that one letter was shown to the Taliban gentleman - but was it E1 - the letter saying the Appellant is in Kandahar, E3 - the letter asking for the Appellant to be brought and given a suicide vest or E5 - asking the Appellant to attend for questioning?

71. Paragraph 6 refers to E5 which is the letter asking the Appellant to attend for questioning.

72. Paragraph 7 refers to E3 which is the letter asking the Appellant to be a suicide bomber. He refers to 'viewing the letter' and the distinct impression I gained was that there was one letter containing information about both matters. But that cannot be correct because E3 and E5 are 2 different letters with 2 different dates.

73. There is then reference to E1 a letter which was said to be written after the Appellant refused to wear the suicide vest but this is also problematic because the suicide vest letter (E3) was written on 4th July 2008 and following his refusal to wear it Taliban sent a letter to Kandahar (E1) but this is dated 24th June 2008. Thus the later letter has an earlier date.

74. This is very unsatisfactory. I am then told that 'there is a death sentence waiting for him from the Taliban.' But I am not told who said this and where this information came from.

75. I attach little weight to this evidence.

Credibility of the Appellant's Account

76. The Respondent says that the Appellant's account is not credible and that his credibility is damaged pursuant to section 8 of the Asylum and Immigration (Treatment of Claimants etc) Act 2004 because he has not claimed asylum until after he was served with removal directions. The Appellant says that he claimed asylum in 2009 but that the Respondent has lost the papers. I make no adverse credibility findings in this regard.

77 I accept the Appellant's account that he was present in the United Kingdom before 2012. I found Mr Khan to be an honest and reliable witness and he has known the Appellant from about 2010 in the UK. Given the Appellant's lack of status it is not surprising that there is a lack of evidence that he was in the UK before 2010 but there is the evidence from specs direct that he became their patient on 31 December 2010.

78. I have considered the credibility of the Appellant's account separately in accordance with paragraph 339L of the Immigration Rules and make the following findings:

- (i & ii) All material factors have not been submitted and the Appellant has not made a genuine effort to substantiate his claim. The Appellant has not provided an adequate explanation as to why he has sought to rely on a letter from the village elders at E11, the contents of which on his own account are inaccurate.
- (iii) I have found Mr Ahmadzai's account not to be generally coherent and plausible. It is not always consistent with the background information.
- (iv) I find that he has not made this claim in the United Kingdom at the earliest possible opportunity.
- (v) His general credibility has not been established.

Specific Matters

79. I find that the Appellant's family were not involved in a blood feud as claimed. This is because in his oral evidence he said that the family had received warrants from

the police about this and this is not consistent with the expert evidence as to how such matters are dealt with.

80. Having found that the Appellant's family were not involved in a blood feud then I do not find that the Appellant's father joined the Taliban to escape the blood feud because the feud did not happen.

81. I have highlighted the many inconsistencies with regard to the bomb attack, including the discrepancies about the date and the fact that the Appellant must have had expert treatment shortly after the attack and not as he has claimed. In his interview and in his witness statement the Appellant said that the bombing was undertaken by his father's enemies (i.e. in connection with the blood feud) but the expert evidence at paragraph 6 page 93 refers to a Taliban attack. On the Appellant's own account, the letter at E11 does not contain accurate information. I find that the Appellant was badly injured in a bomb attack because this is clear from the medical report at section D. The Appellant has not been truthful about who carried out the bomb attack and he is not shown to the lower standard that it was either his father's enemies. He has produced some evidence that it was a Taliban attack.

82. I find that the Appellant did not join the Taliban for two weeks as claimed. His father would not have recruited him because his father was not in the Taliban (because he did not need to escape a blood feud). His account of escaping from them then outrunning his father and the Taliban to Kandahar to Kabul to home and back to Kabul lacks credibility.

83. The Appellant's evidence with regard to his parents lacked credibility. He says that he has lived with his brother for about 12 months and his brother informed him that both their parents were dead he did not know when they died. As submitted by the Respondent's presenting officer, it would be unusual indeed not to know when such significant events occurred. When pressed the Appellant said his father died during fighting for the Taliban 2 to 3 years ago and his mother approximately two years ago.

84. Although the Appellant has made a very considerable effort to prove his claim, I am not satisfied that the contents of the documents produced provide genuine information and I have given considerable thought and considerable findings in relation to the expert evidence about the documents. The contents of the document at E11 is plainly untrue. The dates on the earliest three documents do not tally with the timeline given by the Appellant. The police letters are said to be addressed to the head office of the police station and I was not given a satisfactory explanation as to why these were in the Appellant's mother's possession nor why the summons referred to was not attached or seen.

85. When I consider all of the evidence in the round I am satisfied that the Appellant's account is not truthful and that he has fabricated the account and arranged for documents to be produced with a view to supporting his claim."

8. The tribunal then turned to Article 8 and said it was allowing the appeal on that basis alone because it accepted that the claimant is a full-time carer for his brother who is a minor and who would, were it not for the claimant, be taken into care by the local authority. The view was expressed that the claimant should, initially at least, be given limited leave to enable him to continue to care for his brother.

9. The claimant's representatives asked for permission to appeal to the Upper Tribunal. It was made clear that there was no challenge to the tribunal's reasoning and decision as to Article 8.

That, of course, is unsurprising. But there were, essentially, three grounds of appeal with respect to the international protection aspects. In ground 1 it was asserted that the tribunal had erred in failing to attach weight or “adequate weight” to documentary evidence suggesting that the claimant was wanted by the authorities in Afghanistan. In particular it was contended that the tribunal had failed to properly consider the expert evidence of Dr. Giustozzi regarding that. In ground 2 it was asserted that the tribunal had wrongly held against the claimant in its credibility assessment an inconsistency regarding dates in circumstances where “the Afghan words for two and seven have very similar pronunciation”. In ground 3 it was asserted that the tribunal had erred in taking a point against the claimant as to credibility through his having said that he had not known when it was his parents had passed away. It was argued that the tribunal, in so doing, had failed “to consider the appellant’s illiteracy and mental health condition when assessing this aspect of the appellant’s claim”. After those grounds had been set out there was also a “conclusion” section to the written grounds. That, though, raised what might be regarded as a fourth ground to the effect that the tribunal had “failed to apply the lower standard of proof when assessing this appellant’s claim”.

10. The Judge who granted permission said this:

“The grounds alleged that the judge made negative credibility findings which were unsustainable in the face of the appellant’s evidence, in particular, expert evidence. It was also alleged that the judge failed to consider the appellant’s explanations for alleged credibility issues and failed to take into account his age, level of education and mental health issues.

I have carefully considered the judge’s decision and find that it is arguable that adequate reasons have not been given for rejecting certain evidence, including expert evidence. Although there is a reference, at para, 29-31 to the burden and standard of proof, it is not apparent from the judge’s analysis of the evidence that the correct (lower) standard of proof, was in fact, applied. There was a brief reference to the appellant’s age, level of education and mental health issues at para 47 but it is arguable that insufficient weight was placed upon those matters in the overall consideration of credibility. There is an arguable error of law in the decision.”

11. The appeal was then listed for a hearing before the Upper Tribunal (before me) so that it could be considered whether or not the tribunal had erred in law and, if so, what should flow from that. Representation at that hearing was as stated above and I am grateful to each representative for their assistance. It is fair to say that, before me, most of the argument centred upon what I have identified as ground 1 but I shall now address all of the grounds below in explaining why I have decided that the tribunal did not err in law.

12. Dr. Giustozzi had been asked by the claimant’s representatives to express a view as to whether what has been referred to as “the police document” was or was not authentic. The tribunal appeared to be uncertain (understandably) as to precisely which document, if there was only one police document, Dr. Giustozzi had been asked to consider. As the tribunal pointed out at paragraph 67 of its written reasons there are in fact two documents which might be termed police documents. They appear at pages E7 and E9 of the Secretary of State’s bundle of documents which was before the tribunal. There are translations at pages E8 and E10. Both bear the partial heading “Police Headquarters of Baghlan Province” according to the translations. Whilst the brief wording on each is not entirely clear both do read as if the police are requiring the claimant to attend before them. They are, therefore, on the face of it, a type of summons. The content of the two is virtually identical.

13. In his report of 21 May 2017 Dr. Giustozzi had said this:

“Concerning the authenticity of the police document

2. Lupins Law provided me with scanned black and white copy of the police document. I e-mailed a copy to my researcher Mr Silab Mangal, based in Kabul. Because of the way verification takes place, with the issuing authorities comparing picture (if any) records number, signatures, stamp and any other information contained in the document against the information they hold, the original of the document is not required and a copy suffices.

3. Mr Mangal has extensive experience as a journalist and stringer and currently as a researcher in my projects. He has wide access to the police in the past years and has interviewed several tens of police officers so far. He has also verified several police documents, as well as documents issue by other sources. His CV is attached.

4. Mr Mangal sought to confirm the authenticity, or otherwise, of the police document by contacting Officer Muneer Ibrahimkhel, of the Criminal Police Department of Baghlan Province.

5. Officer Ibrahimkhel was shown the copy of the letter and confirmed that it is genuine. The police sent the letter to the elders of Josh Naw Ahamdzai, asking them to bring Meer Alam, son of Alan Jan, for interrogation. The police had a report that Meer Alam was planning an attack against the police.”

14. What the tribunal had to say about that is set out from paragraph 67-69 of the written reasons. What is argued on behalf of the claimant is that since the tribunal had accepted Dr. Giustozzi as a person with relevant expertise and since it also accepted that there was no evidence that Mr Mangal had been fabricating anything, it was not then open to the tribunal to do anything other than attach significant weight to the police document or documents. But in my judgment that fails to properly analyse and deal with the points the tribunal was making. The tribunal noted that Officer Ibrahimkhel had been asked to look at the document or documents some eight years after it appeared (from the translations) that they had been issued. I suspect, although it did not say so, the tribunal had in mind that it was unlikely, given the time lapse, that Officer Ibrahimkhel even if he had had any personal involvement in the issuing of the documents (and it is not said he had) would now have any actual recollection of that. That was why some kind of check or verification was required. The tribunal then went on to say, again at paragraph 67 and pertinently in my judgment, that it had not been told that there had been any check via any central data base or, indeed, via any other sort of procedure. That legitimate concern which the tribunal had is not linked to its view as to the expertise of Dr. Giustozzi or the honesty of Mr Mangal. It is simply saying that in the absence of any information as to how the document might have been verified, the evidence suggesting that it is genuine, or they are genuine, is not reliable. In my judgment that is a view it was perfectly entitled to come to on the basis of the material before it.

15. In short, I accept Mr Duffy’s submission to me that the tribunal simply found the evidence unreliable for reasons which were open to it and which it adequately explained. I reject this ground of appeal.

16. What I have identified as ground 2 relates to a discrete part of the tribunal’s adverse credibility conclusion. It relates specifically to what the tribunal had to say from paragraphs 42-45 (in particular paragraph 45) of its written reasons. What the tribunal does have to say there is logical and well-reasoned. Whatever the position might be as to how the Afghan words for two and seven are to be pronounced and how similar that pronunciation is, the tribunal was entitled to take the view that Dr. McCoubrie was used to taking detailed histories and had not been in error when

recording the dates of events on the basis of information given to him. This was not, in any event, a ground pursued with any particular vigour before me. Nor in fact does it seem to me to have formed a major part of the adverse credibility assessment. But I detect no error of law anyway. I reject this ground of appeal.

17. What I have identified as the third ground is directed towards what the tribunal had to say at paragraph 83 of its written reasons. The argument is that the tribunal should have taken into account the claimant's illiteracy and his mental health difficulties before concluding that the claimant's assertion that he had not known when his parents had passed away lacked credibility. But in my judgment it was open to the tribunal to conclude that such important events would not be unknown to him. In any event this again, in my judgment, did not form a major part of the adverse credibility findings. But I detect no error of law anyway. I reject this ground of appeal.

18. As to the question of the tribunal applying too demanding a standard of proof, it correctly identified the standard it had to apply (known as the real risk test) at paragraph 29 of its written reasons. It repeated it at paragraph 31. Having identified the correct standard it was not required to continue to repeat it throughout the assessment of the claimant's case. It did not say anything else in the rest of its written reasons to suggest that it had, with respect to any aspects of the case, applied a different standard of proof. Again this ground, if it is to be regarded as a separate ground, is not made out.

19. The Judge who had granted permission appeared to go somewhat further than the claimant's representatives in seeming to suggest that the tribunal might have erred through not taking proper account of the claimant's mental health difficulties generally in its credibility assessment rather than just in the specific context identified in the grounds. But in looking at its summary of the appellant's case to it from paragraphs 16-28 of its written reasons, I cannot see that it was actually invited to do so. Nor can I see any such suggestion in the skeleton argument which had been given to the tribunal by the claimant's representative. The tribunal, in the context of a claimant with competent representation, was not required as a matter of law to take the point for itself.

20. In my judgment the tribunal's detailed written reasons demonstrate that it approached its task with care. It reached findings and conclusions which were open to it on the material before it and which it went on to adequately explain. It did not err in law and accordingly its decision shall stand.

Decision

The decision of the First-tier Tribunal did not involve the making of an error of law. Accordingly, that decision shall stand.

The claimant's appeal to the Upper Tribunal is dismissed.

Signed:

Date: 21 March 2018

Upper Tribunal Judge Hemingway

Anonymity

The first-tier granted the claimant anonymity. I continue to do so pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008. So, unless and until a tribunal or court directs otherwise the claimant is granted anonymity. No report of these proceedings shall directly or indirectly identify him or any member of his family. This direction applies both to the claimant and to the Secretary of State. Failure to comply could lead to contempt of court proceedings.

Signed:

Date: 21 March 2018

Upper Tribunal Judge Hemingway

**TO THE RESPONDENT
FEE AWARD**

I make no fee award.

Signed:

Date: 21 March 2018

Upper Tribunal Judge Hemingway