



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

Appeal Number: PA/12879/2017

THE IMMIGRATION ACTS

Heard at Bradford

On 3rd December 2018

**Decision & Reasons
Promulgated**

On 17th December 2018

Before

DEPUTY UPPER TRIBUNAL JUDGE D E TAYLOR

Between

**KHALAF [T]
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms Khan, Counsel.

For the Respondent: Mr A Tan, Home Office Presenting Officer

DECISION AND REASONS

This is the appellant's appeal against the decision of Judge Hillis made following a hearing at Bradford on 15th January 2018.

The appellant claims to be a male citizen of Syria but the respondent believed, and the judge found, that he was a citizen of Egypt.

The appellant sought permission to appeal against the judge's decision on the grounds that he had relied on documents from the Municipal Council of Tarhuna in Libya confirming his nationality as Syrian, together with a report

from Dr Cherstich authenticating the document and its contents, but the judge had failed to take them into account in reaching his conclusions.

In the Rule 24 reply the respondent stated that he does not oppose the application for permission to appeal and invited the Tribunal to determine the appeal with a fresh oral continuance hearing to consider whether the appellant is a national of Syria. He submitted that the findings at paragraphs 22 to 32 should remain, together with paragraph 33.

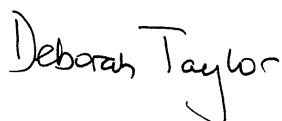
The appellant served a Rule 25 reply, arguing that there were no material findings in the paragraphs referred to in the respondent's reply save for paragraph 32, which related to the documents at issue.

Mr Tan, for the respondent, accepted that the task of the First-tier Judge would be cleaner if the case were remitted de novo but relied on his Rule 24 response and somewhat half-heartedly maintained that some of the findings could be preserved.

I disagree. Most of the findings referred to in the reply are simply a statement of the evidence. Paragraph 32 is a finding in relation to the sending of the document but, given that it is the assessment of the document which is the central issue in this case, I consider that it would be an unwarranted fetter on the next judge's assessment of its reliability were any findings to be preserved in relation to it.

Accordingly, the appeal is remitted to the First-tier Tribunal to be heard by a judge other than Judge Hillis with no findings preserved. His decision is set aside.

No anonymity direction is made.



Signed

Date 10 December 2018

Deputy Upper Tribunal Judge Taylor