Upper Tribunal
(Immigration and Asylum Chamber) **Appeal Number: PA/02555/2017**

THE IMMIGRATION ACTS

Heard at Field House	**Determination Promulgated**
On 21 February 2019	**On 25 February 2019**

Before

Deputy Upper Tribunal Judge MANUELL

Between

Mr OMAR [A]
(NO ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:
For the Appellant: Mr G Loughran, Counsel
(instructed by Wilsons Solicitors LLP)
For the Respondent: Ms S Cunha, Home Office Presenting Officer

DETERMINATION AND REASONS

Introduction

1. The Appellant appealed with permission granted by First-tier Tribunal Cruthers on 5 October 2018 against the determination of First-tier Tribunal Judge G Wilson who had dismissed the appeal of the Appellant against the refusal of his international protection claim. The decision and reasons was promulgated on 14 September 2018.

2. The Appellant claimed he was a stateless Palestinian, born on 11 April 1996 in the United Arab Emirates ("UAE"). The Appellant claimed that he was at risk on return from the government of the UAE as a suspected supporter of the Syrian opposition. He claimed that he and his brother had been collecting money for Syrian refugees, a task they had willingly undertaken at the request of a man they had never met previously, and who did not work alongside them in making the collections. They had been suspected of assisting Syrian rebels and were detained by the police daily for questioning each evening and then released, over the course of a week. The Appellant and his brother were not charged with any offence but were given a week to leave the UAE. They came to the United Kingdom on visit visas already issued to them and claimed asylum on arrival. International protection was refused by the Secretary of State for the Home Department and the Appellant's claim was dismissed on appeal to the First-tier Tribunal. An error of law was subsequently found by the Upper Tribunal and the appeal was remitted for rehearing before another First-tier Tribunal judge.

3. After reviewing the evidence at the rehearing, Judge Wilson found that the Appellant was not excluded from Refugee Convention protection pursuant to Article 1D, as he had never availed himself on UNWRA protection in Lebanon, albeit eligible to do so. The judge found that the Appellant was stateless and that the assessment of his entitlement to refugee status was accordingly to be determined by his country of former habitual residence, i.e., the UAE. The judge went on to find that the Appellant's story was not credible for a number of reasons and that he was not at risk on return to the UAE. In any event, the Appellant could

be returned to Lebanon safely, which he had visited on numerous occasions previously on his own account, and where his family could if necessary support him.

4. Permission to appeal was granted (with several express reservations) in summary because it was considered arguable that the judge had placed too much emphasis on matters of implausibility. It has to be said that the terms of the grant were distinctly ambivalent and warned against ultimate success.

5. Notice under rule 24 in the form of a letter dated 7 December 2018 had been served by the Respondent, opposing the onwards appeal.

Submissions

6. Ms Loughran for the Appellant relied on the grounds of onwards appeal and the grant of permission. In summary, counsel mounted an extensive and detailed assault on the First-tier Tribunal determination, contending that the judge had erred by reaching adverse credibility findings solely on the inherent implausibility of the Appellant's account. Each of the reasons given was vitiated by a failure to take into account material evidence such as the country background information for the UAE. That included the arbitrary deportation of persons suspected of links to groups in Syria. The judge's approach to inherent implausibility was flawed and failed to apply the guidance in HK v SSHD [2006] EWCA Civ 1037. The judge had relied on his own perceptions of plausibility. The judge had also misunderstood the standard of proof and had misdirected himself. The judge had not factored in the Appellant's youth and the recent nature of the UAE laws concerning charity collection. The judge had speculated and had not considered the country expert's views, making the whole determination problematic. The decision and reasons was unsafe and should be set aside and the appeal reheard before another judge.

7. It was not necessary to call on Ms Cunha, given the terms of the rule 24 notice which supported the judge's approach to the (im)plausibility of the Appellant's story.

No material error of law finding

8. The tribunal reserved its decision, which now follows. The tribunal must reject the submissions made on behalf of the Appellant. In the tribunal's view, the errors asserted to exist in the decision and reasons are illusory. The grant of permission to appeal was tentative as well as very liberal indeed, particularly given the reservations expressed. In the tribunal's view, permission to appeal ought not to have been granted. Essentially the dispute is over the adverse findings of fact with which the Appellant disagrees.

9. The determination was meticulously prepared by an experienced judge who stated specifically that all of the evidence had been considered: see [29] of the determination. The judge also correctly directed himself as to the correct burden and standard of proof: see [9]. The suggestion as to the standard of proof to the contrary made in submissions on behalf of the Appellant is unsustainable, and is a generic assertion made too readily in this jurisdiction.

10. The judge placed his consideration of the Appellant's claims into the correct context of the country background information and the Appellant's personal history of lacking full civil rights in a strictly controlled state. The judge engaged in detail with the Appellant's country expert's report and the expert's opinion on plausibility. It was not in dispute that the Appellant had lived his whole life in the UAE in a comfortable existence and is educated and has travelled, i.e., he is well aware of the world around him. His age was not in dispute. He is an adult. Those were the markers against which the Appellant's story fell to be evaluated.

11. The judge noted at [33] of his decision:

> "I can see no support in the background information that the questioning and release in this manner (detention, release and recall on a daily basis) is a recognised tactic of the [UAE] authorities. The Appellant's country expert highlights significant human rights abuses including allegations of torture in detention, arbitrary arrest and detention including incommunicado detention… the UAE has little tolerance for certain political activities including those involving sympathy for political Islam."
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> The judge reached his plausibility findings on the basis of the extensive country background evidence and was entitled to find that the Appellant's story was inherently implausible for the reasons he gave.

12. Indeed, the judge might well have observed what level of folly would be needed for an educated person such as the Appellant, whose right to remain in the UAE was circumscribed by law, to run the risk of associating with an unknown person with connections to Syria during a period of high political tension. The answer is obvious: it would have been such madness as to be wholly implausible. The judge also explained why the Appellant's story was vague. Again, the judge's conclusions were open to him on the evidence.

13. In the tribunal's view, the submissions advanced on the Appellant's behalf amount to no more than disagreement with the judge's adverse findings of fact, all of which were available to him on the evidence presented, which evidence was plainly sufficiently considered and the consequent findings thoroughly and logically reasoned. There was no departure from relevant judicial guidance such as that in HK (above). The tribunal finds that there was no error of law in the decision challenged.

DECISION

The appeal is dismissed_

The making of the previous decision did not involve the making of an error on a point of law. The decision stands unchanged.

Signed **Dated** 21 February 2019

Deputy Upper Tribunal Judge Manuell