Upper Tribunal
(Immigration and Asylum Chamber) **Appeal Number: PA/08344/2018**

THE IMMIGRATION ACTS

Heard at Glasgow	**Decision & Reasons Promulgated**
On 7 June 2019	**On 25 June 2019**

Before

UPPER TRIBUNAL JUDGE DAWSON

Between

JAMAL LUTFI MAHMOUD
(ANONYMITY DIRECTION NOT MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr U Aslam of McGlashan MacKay Solicitors
For the Respondent: Mr A Govan, Senior Presenting Officer

DECISION AND REASONS

1. The appellant is of Palestinian origin. He was born in Jenin and moved with his family when he was two years old to live in Jordan in the Al Zarqa Refugee Camp. But for a period of one year in Syria, the appellant had lived all his life in Jordan in this UNWRA Camp.

2. The appellant's case is that left Jordan in April 2013 and claimed asylum in Sweden in May 2013, and then claimed in Germany in September 2014, leaving the latter before a decision was made. He claimed asylum in the United Kingdom in August 2014 after being served notice as an illegal entrant that same month. The Dublin III Regulation was applied however the appellant was taken out of the third country process on 1 October 2017 and considered to be in the UK.

3. The claim was based on adverse attention that the appellant had received from the Jordanian authorities which would recur on return and because of his lack of documentation. The respondent accepted that Jordan was the appellant's former country of habitual residence and that he was a Palestine national. He had been educated in Jordan and employed there, which required him to be a documented Palestinian. In the light of the appellant's poor credibility, the respondent did not accept that he was not documented as a Palestinian living in Jordan nor was it accepted that he would be of adverse interest to the authorities.

4. The appellant's appeal against the respondent's decision was dismissed by First-tier Tribunal Judge Sorrell for reasons given in her decision dated 4 February 2019. She accepted the appellant's evidence that he was not documented as a Palestinian in Jordan but that this was a result of his decision not to apply for it rather than one of disentitlement. She did not accept that the appellant would have been released if he was of adverse interest to the Jordanian authorities. Although she accepted the appellant had been detained and was routinely stopped and questioned, she did not consider the appellant was at risk of persecution or serious harm if returned to Jordan. She explained at [32] and [33]:

> "32. In respect to the practical issue of the Appellant's return to Jordan, the Respondent has stated in their written submissions that as it is not accepted the Appellant is undocumented in Jordan, it is considered that his removal to that country can be instigated if his appeal fails or in the alternative as a national of Palestine, he can also be removed there. In contrast, the Appellant has submitted that the Respondent will be unable to return him to Jordan in the absence of documents required to obtain travel documentation, or that if he is removed but not admitted upon arrival, he will be stateless and the Tribunal will have to reconsider the issue.
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> 33. Having considered their submissions in light of the findings in **NA Jordan CG** I am of the view that this is a matter for the Respondent and if such travel documentation is not available or the Appellant is not admitted upon arrival to Jordan or indeed in the alternative to Palestine, then the Respondent will not be able to successfully remove the Appellant and will have to reconsider their position."

5. The judge then turned to Article 8 and concluded the appellant would not face significant obstacles to his re-integration into Jordan as he had lived the majority of his life there, with reference to paragraph 276ADE(1)(vi).

6. Permission to appeal was sought on a number of grounds. It is argued with reference to the appellant's documentation, that he would not be recognised as a refugee by the Jordanian authorities and therefore was not entitled to documentation. Had the judge had regard to the appellant's note of argument in a certain exchange of emails, she would not have concluded that his lack of documentation was due to his not having applied for it rather than because he was not necessarily entitled to it.

7. The second ground of challenge argues that the judge had failed to give adequate and comprehensible reasons for rejecting the appellant's claim

that he had been put on a list as a result of the authorities' filming him and others at a demonstration. The judge had made a finding that no reasonable judge would have made in this regard. This was clarified at the hearing as a perversity challenge.

8. The third ground distinguishes *NA (Palestinians – Not at general risk) Jordan CG* [2005] UKIAT 00094 on the basis that the appellant was not recognised by the Jordanian authorities as a refugee and that he was undocumented. The judge had failed to make any mention of these distinguishing features in applying the country guidance.

9. The fourth ground challenges the conclusion that there would not be very significant obstacles to the appellant's re-integration into the Palestinian territories with reference to the meaning of the phrase "very significant obstacles" considered by the Court of Appeal in *AS v SSHD* [2018] Imm AR 169. It is argued that the judge had failed to give adequate and comprehensible reasons and thereby erred in law in this respect.

10. In granting permission to appeal First-tier Tribunal Judge Blundell focused on the appellant's fears from the authorities. He observed at [3] and [4]:

> "3. I consider it arguable that the findings at [24]-[25] of Judge Sorrell's decision are difficult to reconcile. It was accepted, on the one hand, that the appellant had been detained on a number of occasions but it was not accepted, on the other hand, that the appellant would have been identified and put on a list as a result of being filmed at a demonstration. Sedley LJ's well-known remarks in YB (Eritrea) [2008] EWCA Civ 360 are cited in the grounds in this connection but the obvious point is that the authorities did not need, in the case of this appellant, to undertake investigations to ascertain his identity, he was already known to the authorities as a result of his many previous detentions.
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> 4. The point made at [5] of the grounds is also arguable. Having accepted much of the appellant's account, there were factors which distinguished him from the general position considered in NA (Jordan) CG [2005] UKIAT 94. The remaining points are less strong, to my mind, but I nevertheless grant permission to argue all of the grounds of appeal."

11. The judge's determination sets out the law, considers a preliminary issue in relation to an adjournment application by the Presenting Officer based on late compliance by the appellant with directions (which was refused) which is then followed by a summary of the key evidence at [11] to [13] as follows:

> "11. The essence of the Appellant's claim is that he was born in Jenin, in the West Bank in Palestine and that when he was around 2 years old, he moved with his family to Al Zarqa in Jordan and was brought up in a United Nations Relief and Works Agency ("UNWRA") supported refugee camp. His father and his four brothers and four sisters live in Jordan, but his mother died in 2011. He still has family in Palestine. Life was difficult growing up in Jordan. The Appellant, his father and brothers worked hard to make a living and support the family. He was educated

in Jordan at schools that were set up by "UNRWA". He has had various jobs in Jordan. He worked as a salesman, within the construction sector and for a printing company. He did not work as a graphic designer as recorded at his screening interview and thinks that he was misinterpreted by the interpreter.

12. As a Palestinian living in Jordan he has been treated differently to native Jordanians. Whilst participating in demonstrations the Jordanian authorities would throw teargas and batter them. They are not allowed to visit or return to Palestine. He left Jordan because it was becoming politically very bad for Palestinians living there. He was harassed many times by the authorities when walking to work. They would ask who he was, where he was going and would be very rude to him. He would also be asked if he supported a particular group, if he opposed the government and about his activities. He thinks that the authorities feared him for being an activist and that he was at risk to the safety of Jordan. In 2012 he participated in a demonstration in front of the Israeli embassy. The Jordanian police recorded the event and took their names and put them on a list. In 2012 he participated in a large demonstration against the Jordanian authorities. In that year he was involved in many demonstrations and a lot of people were arrested. The police would throw stones, water and teargas to separate and stop the demonstrations. He also witnessed a friend's friend who was Palestinian being beaten and kicked by the authorities and subsequently detained.

13. In the last three months before he left Jordan, he was being harassed and questioned by the police at least once every 10 days. He has been detained by the police on more than one occasion. On one of these occasions he was detained for one day. He does not know why he was detained but was asked questions about where he was going and his intentions. When leaving Jordan, he used an agent to obtain travel documents as it is virtually impossible for a Palestinian to obtain a Jordanian travel document and it was too risky to apply through the proper procedure in case his application was refused and the length of time it could take. He accepts that some Palestinians do obtain travel documentation, but that he doesn't see the purpose of having it as it does not have any legal status in Jordan and he would still be treated in the same way by the Jordanian authorities. He did not possess an identity card in Jordan and does not think as a Palestinian he could have acquired one as evidence of identity is required. It would only have confirmed that he is Palestinian anyway and not having one just suggests the same in that he is a refugee living in Jordan. He accepts that he may not be a person of adverse interest to the Jordanian authorities but does not think he will be allowed to re-enter Jordan without Jordanian citizenship or any travel documentation. He claims that he is at risk of persecution or serious harm if he were returned to Jordan on the grounds of nationality and as a member of a particular social group. He further claims that there would be a breach of Article 8 of the "ECHR" if he were returned to Jordan or Palestine as there would be very significant obstacles to his re-integration into either country."

12. Thereafter the judge sets out the reasons for refusal which raised issues of credibility on the issue of documentation in the light of the appellant's

education and employment and the issue of obstacles under paragraph 276ADE(vi). The judge went on to explain that she had carefully considered all the evidence in the round with an overall assessment before reaching her findings.

13. On the issue of documentation, the judge had this to say at [21] to [23]:

> "21. I accepted the Appellant's material evidence as credible that he was not documented as a Palestinian in Jordan. This is because I found he was largely consistent in his evidence in that he did not see the point of having any documentation as it would have made no difference to the discriminatory treatment he received from the Jordanian authorities in any event. I also found his explanation plausible that as he was educated in "UNWRA" schools he did not need documentation. This is because it was not in dispute that his mother was registered with "UNWRA" and he was raised in the "UNWRA" Zarqa refugee support camp. (Page 1 of the Appellant's 5th bundle) Furthermore, it is clear from the "**UNWRA" publication 2015** about the Zarqa camp, (lodged at page 2 of the Appellant's 1st bundle) that it runs four-double shift schools in the camp. I further found the Appellant's evidence consistent regarding his casual and various employment in Jordan which would not have required documentation and therefore accepted that the interpreter at his Asylum Screening Interview had misinterpreted his work for a printing company as him being a graphic designer.
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> 22. However, I found that the Appellant's lack of documentation in Jordan was as a result of his decision not to apply for it, rather than because he was not necessarily entitled to any. This is because in his amended response to Question 73 at the "SAI" as to why he couldn't use his parent's residence documents to gain documentation for himself, he stated that it is very difficult to obtain documents to reside in Jordan, although he could have done so if he really needed to, but that he didn't want to live the same life as his parents. (Paragraph 16 at C33 of the Respondent's bundle)
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> 23. His evidence was also uncertain and inconsistent about the type of documentation he could have applied for as in his evidence-in-chief he stated that some Palestinians do obtain travel documentation, but that he did not think he could have acquired an identity care. Yet, when asked in cross-examination about the type of document he could have applied for, he responded that he didn't know exactly as he had never applied for one and that it could be a work permit or an identity card as he has seen other Palestinians with identity cards. Nevertheless, I considered that this evidence further supported his account that he did not possess any documentation and that it accorded with the complex manner in which the type of documentation a Palestine in Jordan is entitled to depends upon how their status is categorised (Pages 23-4 of the Refugee Review Tribunal-Australia 2009)"

14. As to the appellant's difficulties with the authorities, the judge observed at [24] and [25]:

> "24. It was not in dispute that the Appellant had been stopped and questioned by the authorities on a number of occasions, or that he had

attended demonstrations in Jordan. However, I did not accept his evidence that he knew he was put on a list as a result of the authorities filming him and others at a demonstration. This is because I did not consider it plausible that as a result of being filmed he would have been readily identifiable and put on a list, especially if he was undocumented.

25. Furthermore, although I found the Appellant's evidence plausible that he had been detained by the authorities, I did not accept that he would have been released if he was of adverse interest to the Jordanian authorities and listed as an activist. Indeed, the Appellant's own evidence was inconsistent as to whether he was of such interest to the authorities. In his evidence in chief, he stated that he thought the authorities feared him for being an activist and that he was a risk to the safety of Jordan. (Paragraph 9) Yet, in response to the "RFRL," he accepted that he may not be a person of adverse interest to the Jordanian authorities." (Paragraph 30)

before concluding at [26]:

"26. In assessing all of the evidence in the round, I am of the view that the Appellant is not of adverse interest to the Jordanian authorities. This is because he was released on the occasions he was detained by the authorities and that other than being questioned by them, he gave no evidence that he had suffered ill-treatment or had been threatened with such. Therefore, whilst I accepted that the Appellant had been detained and was routinely stopped and questioned which could amount to discriminatory treatment, I did not consider that the Appellant was at risk of persecution or serious harm if returned to Jordan. In reaching this finding, I have also taken account of the country guidance in **NA (Palestinians – not at general risk) Jordan CG [2005] UKIAT 00094**, which held that although Palestinians in Jordan may be subject to discrimination in certain respects in their social lives, this does not cross the threshold from discrimination to persecution or a breach of protected human rights and that in the absence of any evidence to the contrary, I have not departed from that."

15. Having found that the appellant would not be at risk in Jordan, the judge then considered on a hypothetical basis, the alternative course of return to Palestine. She concluded that he would neither be at risk under Article 3 ECHR nor that he qualified under Article 15(c) in such an eventuality before looking at the consequences of statelessness in [32] which is set out above.

16. The Article 8 aspect which is challenged in ground 4 was considered by the judge under the rules taking account of the length of time the appellant has lived in Jordan, language and family support as well as his employment history. There was no case based on private life in the UK.

17. The amended answer to question 73 at interview (referred to in [22] cited above) was as follows:

"Question 73. Delete sentence and replace with "it is very difficult to obtain documents to reside in Jordan, however if I really needed to, I could have

> obtained documents but I didn't want to live the same life as my parents. My parents were labelled as homeless and were often forced out of their homes because they were refugees living in Jordan. A refugee in Jordan is not allowed to have full access to education or jobs. The local people look down at refugees there; we are discriminated there as refugees. I don't want to live my life with that feeling."

18. Pausing also here to note the emails referred to in ground 1, these comprised a response from UNWRA on 5 August complaining about the shortness of the time for reply but also asking for the appellant to fill in and sign a verification form. This was in response to an email from the appellant's solicitors dated 1 August which simply refers to attached correspondence. That email provides the appellant's full name plus a reference number. The completed verification form has been provided but none of the correspondence that accompanied the email of 1 August. An explanation for the short time scale is given in a reply from the solicitors on 8 August which refers to a copy of an UNWRA registration card for the appellant's maternal grandfather's family. This has also been provided. UNWRA replied on 9 August explaining:

> "Kindly note the applicant is not a registered refugee with UNWRA. His mother, Zeinat Fawzi Chubach Ali is registered with the agency as single on her father's family card in Jordan. No further information is available about his father or any of his family."

19. The appellant was not at court. Mr Aslam explained that he had been given the option of doing so but he had been told it was an error of law hearing and the case could be remitted. Such advice was perilous in the light of the clear direction given with the grant of permission that if error were found the presumption was that the remaking will take place at the same hearing.

20. I take each ground in turn.

21. Ground 1: Mr Aslam began his submission on the basis that the case required remittal to the First-tier Tribunal. He contended that there was a conflict between the findings in [21] where the judge accepted that the appellant was undocumented and [22] and [23] where the judge considered he could obtain documentation. The judge had not referred to the email exchange and although he acknowledged that the appellant had accepted in the amended answer to question 73 that he could have applied. He drew a distinction between the appellant's opinion on the matter and whether in fact he could obtain documentation. It was unclear whether the judge had read the email exchange, but this was neither here nor there in the light of the lack of clarity over the documentation issue. He acknowledged that the judge had not been provided with a copy of the request made to UNWRA.

22. For his part Mr Govan began his submissions by arguing the grounds overall were a disagreement and that the judge had provided adequate reasons. Specific to ground 1, the judge had reasoned that the appellant had accepted he could have accessed documentation but had chosen not

to do so by reference to the amended answer. The email exchange had not advanced the case and the judge was not required to comment on every aspect of the evidence.

23. In my judgment, this ground is not sustainable. There was a wide range of material on the circumstances of Palestinians in Jordan before the judge and there is no reason to doubt the judge's sincerity when in [20], she explained that she had considered all the evidence. A reading of the material provided by the appellant's advisers shows that the issue of documentation is a complex one and I accept Mr Govan's submission that the email exchange did not advance matters except to confirm the evidence of the appellant which was that he was not documented. Crucially the email does not address the point at issue which was whether the appellant was entitled to documentation. I consider that given the evidence by the appellant which was that he could have applied for documentation, the judge was rationally entitled to conclude as she did.

24. As to ground 2, Mr Aslam noted that the judge had accepted the appellant's evidence that he had been detained by the authorities in [25] and it was therefore difficult to see how the judge could have concluded in [24] that he would not have been readily identifiable as a result of being filmed. Had the appellant been detained and released, he would have been of some interest. In my judgment this ground is without merit. The reasons given for the conclusion to reject the evidence that the appellant knew he was on a list as a result of being filmed was because of the appellant's evidence that he was undocumented and therefore would not have been readily identifiable. A fair reading of the judge's reasoning at [24] to [26] informs the reader of the judge's thinking and reasoning for her findings on this aspect of the claim which in my judgment were rationally reached.

25. Turning to the third ground, Mr Aslam candidly acknowledged that it was not his strongest. The appellant's distinguishing features or characteristics were plainly in the judge's mind as explained in [26] before her conclusion was reached by reference to NA (Palestinians). In my judgment this ground is a disagreement with the conclusion and does not disclose any error of law.

26. As to the final ground, Mr Aslam explained its scope. The significant obstacles which the appellant contended he would face on return related only to Palestine and not Jordan; the appellant relied only on protection grounds in relation to the latter. The judge had considered return to Palestine on a hypothetical basis as an alternative to removal to Jordan where a primary finding had been made that he would not be at risk. At [31] the judge explained why she did not consider substantial grounds had been shown that were the appellant to be returned to Palestine he would face a risk of suffering persecution or serious harm. Return to Palestine was also considered on a hypothetical basis as an alternative to Jordan in respect of paragraph 276ADE(1)(vi) as follows:

> "35. The Appellant seeks leave to remain in the UK on the grounds of private life in accordance with Paragraph 276ADE (1) (vi) of the

Immigration Rules in that he has lived continuously in the UK for less than 20 years and there would be very significant obstacles to his re-integration in Jordan, or in the alternative Palestine, if he were required to leave the UK. This is on the basis that in the absence of any legal status or protection from "UNWRA," he would not be able to secure employment in Jordan and he cannot reasonably be expected to live with his family. Further, that in terms of Palestine, he has not lived there since he was very young."

27. The judge then proceeded specifically in respect of Palestine to conclude at [36]:

> "36. … In respect of re-integration into Palestine as an alternative, I found that apart from leaving Palestine at a young age, there was no other evidence before me of the significant obstacles the appellant may face to his re-integration there. As such, I did not accept the appellant would face significant obstacles on that basis alone and have noted that he does still have family in Palestine who he is in contact with. I therefore considered that in applying these facts to the guidance in the decision of **Kamara v SSHD [2016] EWCA Civ 813** and having heard no evidence of the appellant establishing a private life in the UK to which **Razgar** could be applied, there would be no breach of Article 8 of the ECHR."

28. The grounds complain that the informed reader is left in real and substantial doubt as to the reasons for which the judge concluded there were no significant obstacles to the appellant's re-integration into the Palestinian territories. Mr Aslam reminded me that the appellant had left Palestine at the age of 2 which he contended was a material factor.

29. In my judgment the judge gave sustainable reasons why she considered there were not unsurmountable obstacles having regard to the absence of evidence on the point. Even if I were persuaded the judge had erred, Palestine was considered on an alternate basis to Jordan. Sustainable reasons had been given why the appellant could safely return to Jordan. Not only do I consider the judge reached a justified conclusion with regard to Palestine in paragraph 2976ADE, even if I were persuaded otherwise, such error in the circumstances would not be material.

NOTICE OF DECISION

This appeal is dismissed.

No anonymity direction is made.

UTJ Dawson

Signed Date 21 June 2019

Upper Tribunal Judge Dawson