



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

Appeal Number: PA/11114/2017

**THE IMMIGRATION ACTS**

**Heard at: Birmingham Civil Justice Centre  
On: 18<sup>th</sup> February 2019**

**Decision and Reasons  
Promulgated  
On: 22<sup>nd</sup> February 2019**

**Before**

**UPPER TRIBUNAL JUDGE BRUCE**

**Between**

**MOE  
(anonymity direction made)**

Appellant

**and**

**Secretary of State for the Home Department**

Respondent

**For the Appellant: Mr Barnfield, Counsel instructed by Genesis Law Associates**

**For the Respondent: Mrs Aboni, Senior Home Office Presenting Officer**

**DECISION AND REASONS**

1. The Appellant claims to be a national of Syria born in 1995. The matter of his identity is the central issue in this appeal: the Respondent has refused to grant him protection on the grounds that the Respondent believes him in fact to be a national of Egypt.

2. By its decision of the 4<sup>th</sup> April 2018 the First-tier Tribunal dismissed the Appellant's appeal. In broad summary it accepted the Respondent's case that the Appellant is an Egyptian masquerading as a Syrian and so falsely claiming an entitlement to international protection. Its reasons were:
  - a) Although the Appellant has produced copy documents purporting to be Syrian identity documents belonging to his family members, these have not been produced in the original;
  - b) The Appellant has in any event failed to provide translations of these documents;
  - c) The Appellant failed to approach the Syrian embassy in the United Kingdom to obtain verification of his identity card and/or claimed nationality;
  - d) A linguistic analysis commissioned by the Respondent indicates that the Appellant's language is inconsistent with his claim to be from a village near Aleppo, but clearly suggests that he is in fact Egyptian;
  - e) The Appellant's credibility is damaged by his failure to claim asylum *en route* to the United Kingdom in at least two safe European countries.
3. The Appellant now has permission to appeal against that decision on the following grounds:
  - i) In respect of reason (a) above the Tribunal has failed to take material evidence into account, namely that the family members involved are still in Syria and so are unable to provide their original documents, which had been photographed and sent to the Appellant online;
  - ii) In respect of reason (b) above the Tribunal has erred in fact because complete translations were provided for all of the documents concerned;
  - iii) In respect of reason (c) above the First-tier Tribunal failed to take material evidence into account. The Tribunal declined to attach any weight to the Appellant's Syrian identity card because he had not had it verified by the Syrian embassy in London. The Tribunal here failed to have regard to the fact that there has not been an operational embassy in London since 2012 and the Appellant would therefore have no means of obtaining Syrian consular assistance;
  - iv) In respect of reasons (d) and (e) above the Appellant accepts that these were matters that weighed against him in the balance but submits that the decision overall is flawed for the errors identified herein and that the matter would therefore need to be set aside to be remade.
4. Before me Mrs Aboni, having listened to the submissions of Mr Barnfield accepted that at least grounds (ii) and (iii) were made out.

The translations are all in the bundle, reflecting the Appellant's evidence that these Arabic documents are the Syrian identity cards of family members including his sister, her husband and their children. The Judge (and Presenting Officer before the First-tier Tribunal) were mistaken to think that they were not. It is also correct to say that there is no operational Syrian embassy in the United Kingdom and that as such it is not possible for the Appellant to have the original document submitted to the Home Office as long ago as July 2017 authenticated. Mrs Aboni accepted that these grounds do go to the heart of the decision. Whilst the Respondent maintains that the linguistic analysis is a weighty item of evidence, he accepts that the documents supplied, purportedly issued by the Syrian authorities, must be weighed in the balance before a lawful decision can be reached. For that reason the decision of the First-tier Tribunal must be set aside.

5. It was not possible for me to proceed to remake the decision in the appeal today as there was no Arabic interpreter available and in light of the credibility issues raised, Mr Barnfield wished to call his lay client. The parties were further in agreement that the most appropriate forum for the remaking would be the First-tier Tribunal, given the extent of fact finding required. I agree and so remit the matter to the First-tier Tribunal.

### **Decisions**

6. The determination of the First-tier Tribunal contains material errors of law and it is set aside.
7. The decision in the appeal is to be remade in the First-tier Tribunal
8. Having regard to the fact that this is a protection claim I am prepared to make the following direction for anonymity, pursuant to Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 and the Presidential Guidance Note No 1 of 2013: Anonymity Orders.

“Unless and until a tribunal or court directs otherwise, the Appellant 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 Appellant and to the Respondent. Failure to comply with this direction could lead to contempt of court proceedings”.

Upper Tribunal Judge Bruce

February 2019

Dated 18<sup>th</sup>