



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

Appeal Number: PA/07486/2019

THE IMMIGRATION ACTS

**Heard at Manchester Civil Justice Centre
On 16th January 2020**

Decisions & Reasons Promulgated

On 29th January 2020

Before

DEPUTY UPPER TRIBUNAL JUDGE KING TD

Between

MR FARES RAFEQ SAAD AL-SANABANI

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr M Abdullah, Solicitor, representing Hazelhurst Solicitors
For the Respondent: Mr A McVeety, Home Office Presenting Officer

DETERMINATION AND REASONS

1. The appellant is a citizen of Yemen who has lived for some time in Saudi Arabia. He arrived in the United Kingdom on 13th April 2017 with a visit visa valid until 8th June 2017. He claimed international protection as a refugee.
2. The respondent refused that claim for the reasons as set out in the decision of 10th April 2018.
3. The appellant sought to appeal against that decision, which appeal came before First-tier Tribunal Judge Andrew Davies for hearing on 20th

December 2018. In a decision promulgated on 15th January 2019 his appeal was dismissed.

4. Thereafter, the appellant sought to make further submissions in support of a fresh claim, which submissions were refused in a decision of the respondent of 12th July 2019.
5. The appellant sought to appeal against that decision, which appeal came before First-tier Tribunal Judge Hillis on 16th September 2019.
6. In that decision Judge Hillis paid particular regard to the reasoning of the previous Tribunal Judge and concluded that the appellant and his wife lacked credibility. He rejected the nature of the documentation as presented on behalf of the appellant seeking to show that he could not safely return to Saudi Arabia or indeed return at all.
7. Challenge is made to that decision, essentially on the basis that the Judge relied over much on the decision of **Devaseelan** and also that he allowed his view as to lack of credibility to unduly cloud his response both to the evidence of the appellant and his wife but also to the way in which the documents that were presented were received and dealt with. Leave to appeal to the Upper Tribunal was granted on such matters and thus the case comes before me to determine the issues.
8. The first matter that arises is the reliance placed upon the determination of Judge Davies by Judge Hillis. It is contended on behalf of the appellant that rather than treating the determination as a starting point Judge Hillis allowed it to dominate his judgment.
9. It seems to me important to underline that the decision of First-tier Tribunal Judge Davies was a very detailed and fact-specific decision.
10. In summary, it was the case of the appellant as advanced before him that his wife's family resented the fact that he had sought to marry her. He claims that the grandfather was the only member of the family that was in favour of such arrangements and that he was taken into custody by his future brother-in-law, who was involved with the police, and that upon the death of the grandfather it is the family view that he should not have married his wife. He fears both for his safety and indeed she indicates she fears for hers. The appellant came to the United Kingdom, it is said, having left his wife in Saudi Arabia, with the brother-in-law having come to the house on 12th April 2017 and taken his wife. The appellant left Saudi Arabia for the United Kingdom on 13th April 2017.
11. Curiously, his wife was allowed to join him and it was a significant feature in the assessment of Judge Davies that she had been allowed to do so by being brought to the airport by her mother.
12. In a comprehensive determination Judge Davies comes to the conclusion that the account of the appellant being detained was not credible nor that the vendetta claimed against him was in any way credible. The Judge,

having heard the appellant and his wife, concluded that both lacked credibility altogether in the claim which they presented.

13. It was accepted that the appellant could not return to Yemen but nevertheless it was considered that he could return safely with his wife to Saudi Arabia should he decide to do so.
14. Thus it was, that on 15th January 2019 the decision to dismiss the appeal was promulgated. This time of course the appellant is in the United Kingdom as is his wife. She had indicated to the Judge that she did not wish to return to Saudi Arabia and feared also for her safety if she did so.
15. Within months of that decision further submissions were made on behalf of the appellant, particularly in a letter of 5th June 2019, which counted as the further submissions to the effect that the appellant had failed to comply with the conditions of his entry/exit visa which expired on 9th or 12th June 2017.
16. It was said that the appellant's Saudi Arabia residence permit (Iqama) had expired on 26th September 2017. Since his residence permit had expired he was unable to extend his exit or re-entry visa on return to Saudi Arabia or obtain a renewed permit.
17. It is said that on expiry of his visa to Saudi Arabia his name would be removed from the Saudi Arabian immigration sponsorship system as he is no longer under the sponsorship of his wife although his wife has tried many times to contact the Saudi Arabian immigration authority to obtain a visa for Saudi Arabia for the appellant. That has been refused because he failed to return in accordance with the visa. It is said by the appellant that he needs a valid visa in the country where he is applying from to visit Saudi Arabia. Since his UK visa had expired on 8th June 2017 he was unable to apply even for a visit visa to Saudi Arabia.
18. The appellant contended that the respondent was mistaken in considering that he was entitled to a five year residence permit because he was in fact issued with an ID card issued for four years but his residence card is required to be extended annually by the sponsor. Because he is out of the country his wife cannot extend that permission.
19. It is also indicated that notwithstanding what the wife had to say about her fear of returning to Saudi Arabia she had in fact returned on 18th April 2019 because she was sick and depressed by the life in the United Kingdom. According to the evidence of the appellant and his wife that return had been agreed by family and the condition of her returning was that she would institute divorce proceedings against the appellant.
20. What lies at the heart of the further grounds is that the appellant's residence permit has expired and cannot now be renewed so that he can no longer return to Saudi Arabia.
21. The respondent in the decision of refusal of 12th July 2019 had given careful consideration to the documentation that had been presented in

support of that claim. For reasons as set out in the decision little weight was paid to the documentation that was provided.

22. It is to be noted that in the further submissions that were made the issue that was raised was whether the appellant could renew his residence permit with the sponsorship of his wife. Subsequent to that letter of refusal the issue of divorce came into the equation.
23. At the outset the Tribunal Judge considered the findings of the previous Tribunal Judge and **Devaseelan** and concluded that that was the proper starting point in the investigations. It seems to me that that is a perfectly proper approach to take.
24. The Judge concluded, insofar as the matter of credibility is concerned, that there was little new evidence to show that Judge Davies's findings of fact were no longer sustainable. The original the claim had been that the family were against him and that his wife would be hurt if she did not comply with their wishes. That had not been accepted but now, under the guise essentially of a divorce, the appellant is saying as is his wife in a statement that essentially that hostility lies at the very root of the problem.
25. The Judge clearly did not accept that and considered that that is perhaps just part and parcel of what had been stated before and as such coloured what was presented. For my part, I see no error in that approach. Further, the proper starting point to the overall consideration of the documentation that was presented as highlighted by the Judge, was that, if in fact the appellant's entry visa expired in 2017 was indeed the reason which prevented his return, why was that not a matter that was raised before Judge Davies in the hearing of 2018. It seems to me that that is an obvious and indeed a proper question to ask in the circumstances.
26. Overall, reading the determination, it is generally the view of Judge Hillis that following the dismissal of the appeal other matters have been raised in order to bring it to life once again.
27. It is to be noted, as set out in paragraph 45 of the determination, that the appellant moved with his mother from Yemen to Saudi Arabia in 2009 when he was approximately 22 years old and worked in sales and marketing for a car hire company. It was noted that it was the duty of the employers to obtain a residence permit for their employees. The Judge concluded therefore that if the appellant was working legally in Saudi Arabia that he must have a valid residence permit prior to marrying his wife on 3rd March 2015. It would be valid for five years of renewal every five years. It was his judgment that the residence permit would have expired in 2014 at the earliest and that he would be required to renew it for a further five years prior to its expiry, which would then have given him a residence permit valid until 2019. The Judge concluded therefore that the appellant had a valid residence permit possibly until 2019.

28. The Judge noted that there was no evidence before him that the appellant would be required to apply for a different residence permit on marrying his wife on 3rd March 2015.
29. The appellant contends that at no stage did he have such a residence permit but rather that it was simply his Saudi Arabian identity card, which coincidentally seemed to have expired at his date of birth.
30. The Judge for clear reasons in the determination rejects that contention. Having looked at the identity card, in particular the coincidence that it seems to have expired on the appellant's birthday rather than a particular date, he concludes that it was not a genuine identity card but finds, particularly having regard to the background materials presented, that the appellant would have had and needed a residence permit and that on the balance of probabilities he had that but that one valid until 2019 at the very least. He regarded it as a significant feature of the case, as indeed Mr McVeety submits to me, that at no stage has either the residence permit nor indeed the sponsorship permit on the basis of marriage been presented for the attention of the Tribunal.
31. Rather, what is said is that the printout of the visa for single exit/re-entry visa shows it was issued on 13th April 2017 and that that expired on 12th June 2017 due to his failure to return to Saudi Arabia. It is contended in the grounds that that visa was submitted in the form of electronic download and that the Judge did not fairly allow the appellant to prove its veracity. However, the Judge did not take issue with that particular visa but was not satisfied that that visa, having expired, had any real influence upon the appellant's ability to return.
32. Mr Abdullah, on behalf of the appellant, submits that he was unfairly prevented from presenting the evidence of the visa electronically on his computer. It seems to me that that really is not the issue. Mr Abdullah submits that it is clear or would have been clear upon an examination of the computer that the permit to the appellant has been withdrawn. He says that it is an online system and therefore the attitude of the authorities towards the appellant can easily be determined because of what is put online in terms of the residence/sponsorship permission.
33. Although seemingly attractive as an argument, it is to be noted that at no stage has the appellant produced to the Tribunal the online record of what his residence permit/sponsorship permit actually says. If it is an official site upon which the residence permit is contained and updated, then it can be printed off and presented to show a decision by the authorities to revoke that residence permit.
34. Although the appellant and indeed his wife contend that that is the effect of the expiry of the visitor's visa there has been no clear presentation to the Tribunal of the base material, namely the online visa granted to the appellant for many years or showing a decision by the authorities to quash it. As Mr Abdullah accepts, that could have been obtained very easily by a printout from the relevant computer showing the various permissions that

have been awarded and showing when it was that they have been rescinded. No such documentation has been presented but perhaps it is obvious that it could be.

35. What is presented are statements from the appellant's wife that she has sought to persuade the authorities to regrant sponsorship or entry into Saudi Arabia and that they have refused.
36. The Judge gave little weight to her evidence, firstly because it was, as he indicated, uncertified and secondly, that it had not been tested or open to challenge and thirdly, she was in any event a person who had lacked credibility. It is perhaps right to note that the Judge was in some error on the certification matter in that there is clearly a copy of her evidence and that of her witness which has been certified as duly translated. The fact, however, that there has been an accurate translation of a statement does little to indicate that the statement itself can be relied upon.
37. The curiosity of this case is that the appellant's wife seemingly is seeking to renew his application for residence based upon her sponsorship when seemingly she is somebody who very shortly afterwards was seeking to divorce him. Clearly, if the appellant had that form of permission he would rapidly have lost it because of her divorce proceedings.
38. The fundamental issue is of course what was the nature of the permission that the appellant had to be in Saudi Arabia prior to his leaving in 2017.
39. As Mr McVeety indicated, notwithstanding the respondent's remarks in refusal no clear evidence of what was the status of the appellant prior to his coming to the United Kingdom has been presented, albeit it could have been in electronic form. Equally, if the authorities decided to vary that permission or to revoke it, that also would have been clearly demonstrable by reason of the online evidence. The process presumably would have been relatively easy to produce but significantly, it has not been, nor indeed has it been even for the purposes of the appeal before the Upper Tribunal.
40. The expiry of the visa may indeed have the effect that is claimed, namely that the appellant cannot return to Saudi Arabia on any basis. As indicated, that point could easily be dealt with by a proper printout of the online permission that is supposed to have been in existence or revoked.
41. Equally, the appellant could adduce evidence from the embassy of his own efforts to seek to return. His evidence extends only that he made arrangements to visit the embassy but there is nothing from the embassy to indicate what was the outcome of those visits.
42. It is a relatively simple question therefore whether the appellant has or had a residence permit because of his employment in Saudi Arabia or has or had a residence permit by reason of his marriage to a Saudi wife.
43. Clearly, if there be a residence permit that is dependent upon the sponsorship of an employer. Little indication has been given as to what

employment the appellant had prior to leaving or whether indeed he would be able to enjoy that employment upon return and whether indeed in those circumstances there would be a renewed sponsorship of him by his employer.

44. Similarly, the aspect whether the appellant can return as spouse. Such calls in question the credibility of the contention being made that the spouse no longer wishes to be his spouse but is seeking to divorce him. The question then arises whether that is a genuine divorce or whether it is a device simply that has arisen subsequent to the hearing. As the Judge notes, one moment the appellant's wife is a loyal and supportive wife, the next she is somebody seeking to divorce the appellant.
45. Essentially, looking at the matter overall, the Judge felt unable to place much weight upon the documents that had been presented because they did not grapple with the real issue nor indeed did the Judge find the aspects of the appellant's wife's conduct and divorce such as to be credible in all the circumstances.
46. It is a matter of balance for a Judge to consider the context and the circumstances. There are many issues that are raised in the appeal. As Mr McVeety submits, really, the issue is a fairly simple one, namely for the appellant to produce credible evidence to show what his real status in Saudi Arabia was prior to coming to the United Kingdom and is now giving some indication from the authorities as to why he may not return. As the Judge indicated, if it were simply a matter that he overstayed his leave in the United Kingdom and as such was prevented from returning, that was in 2017, why was it not raised at the hearing in 2018.
47. Although some criticism can be attached perhaps to the fairly robust way in which the Judge dealt with the evidence and perhaps dealt with the written testimony of the appellant's wife and witness, I do not find that such amounted either to abuse of process or to unfairness in the overall context of this case. The appellant was put on notice, it seems to me, by the respondent's decision of refusal as to what documentation was required and did not grapple with the central issues that could be so easily have been dealt with.
48. Overall therefore, I find that the decision of the Tribunal Judge was not one made in error of law. The appeal before the Upper Tribunal is dismissed. The decision of the First-tier Tribunal Judge, Judge Hillis, is to stand, namely that the appellant's appeal in respect of asylum, humanitarian protection or human rights stands dismissed.

Notice of Decision

The appeal is dismissed in respect of all matters claimed.

No anonymity direction is made.

Signed P.D. King

Date 27 January 2020

Deputy Upper Tribunal Judge King TD