



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2022-002968
First-tier Tribunal No:
DC/00037/2021

THE IMMIGRATION ACTS

Decision & Reasons Issued:
On the 28 April 2023

Before

UPPER TRIBUNAL JUDGE KEBEDE

Between

MBARAK AWADH ABDALLAH
(Anonymity Order not made)

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: In Person (not represented)

For the Respondent: Mr F Gazge, Senior Home Office Presenting Officer

Heard at Birmingham Civil Justice Centre on 7 March 2023

DECISION AND REASONS

1. The appellant appeals, with permission, against the decision of the First-tier Tribunal dismissing his appeal against the respondent's decision to deprive him of his British nationality under section 40(3) of the British Nationality Act 1981.

The Appellant's Case

2. The appellant claims that his true identity is Mbarak Awadh Abdallah, born on 3 February 1979 in Kismayo, Somalia. He claims to be from the Bajuni clan of Southern Somalia and to have fled Somalia in November 2000 after experiencing problems there. He claims that he went to Mombasa, Kenya where he stayed until he was able to travel by aeroplane to the UK on 24 April 2021, with the assistance of an agent. He claims to have made an asylum application on 30 April 2001 and to have provided the Home Office with all the documents he had with him including his Somali birth certificate. He was photographed and fingerprinted and questioned about his identity and journey to the UK. The appellant claims that his documents were handed back to him. He was subsequently interviewed in full about his claim on 6 August 2001, following which the respondent refused his claim on the basis that it was not believed

that he was a Somali national. His appeal against the refusal decision was heard in his absence and was dismissed on 18 December 2001. He claims to have applied for a provisional photocard driving licence on 17 March 2003, providing the DVLA with his Somali birth certificate and the Home Office letters confirming his identity as Mbarak Awadh Abdallah, born on 3 February 1979 in Somalia, and he was issued with a driving licence on 19 March 2023.

3. The appellant married his wife, Salma Omar Ali, on 29 January 2004, and made an application for leave to remain on Form FLR(M) as a spouse on 10 May 2004. His application was refused but he was granted Discretionary Leave to Remain from 18 March 2005 to 18 March 2007 outside the immigration rules. He claims that, despite having provided passport sized photographs with his application, the immigration status document issued to him did not contain his photograph. He applied, through his solicitors, for a travel document on 16 April 2005 because he wanted to travel to Kenya to complete his uncle's funeral rituals and visit relatives in refugee camps, and he was issued with a travel document. He went to Kenya in the summer of 2005 and was reunited with his parents whom he had found in a refugee camp. They had since come to the UK and become British citizens. He and his wife bought a property at 191 Chinn Brook Road, Billesley, Birmingham, and moved there on 5 May 2005 and had been residing there ever since. His wife's relative, Twaha Ahmed Salim, moved in with them and stayed with them until 2012.

4. The appellant applied for Indefinite Leave to Remain as a spouse on 17 February 2007, but his application was refused again, although he was granted further Discretionary Leave to Remain outside the immigration rules until 18 March 2009. He applied for settlement on 23 February 2009 and was granted ILR under the legacy scheme on 14 April 2010 due to his length of residence in the UK. He applied for naturalisation as a British citizen on 3 May 2011 and he became a British citizen on 24 January 2012 following a citizenship ceremony. He applied for his first British passport on 18 April 2012, submitting with his application his Immigration Status Document endorsed with his ILR and his certificate of naturalisation.

5. On 7 August 2012 the appellant was invited for an interview under caution where he was made aware that the identity of Nasser Yasser Nasser had been used by two people and that that identity had subsequently been changed to Mbarak Awadh Abdallah with a date of birth of 17 November 1979. The case was referred to UKBA for further investigations. The appellant's home was raided and searched by police and immigration officers on 12 March 2013 and he was arrested on suspicion of the offences of seeking/obtaining leave to remain by deception in the identity of Nasser Yasser Nasser. He was interviewed again on 10 July 2013 and was informed that enquiries had been made through the British High Commission in Nairobi and a copy of a birth certificate had been obtained in the name of Mbarak Awadh Abdalla born on 20 June 1980 in Mombasa, Kenya. The appellant claims that that was the first time he had been made aware of that birth certificate and identity. He claims that he was never charged with or convicted of any immigration offences including the allegation of seeking/obtaining leave to remain by deception in the identity of Nasser Yasser Nasser. However he learned that his wife's relative, Twaha Ahmed Salim, had been arrested on 12 March 2013 and had various bank cards on him at the time of his arrest in different identities, including documents in the name of Nasser Yasser Nasser. He and his wife separated for over a year between 2013 and 2014 because he blamed her for his arrest, as Twaha was her relative.

6. The appellant was informed by HMPO in April 2015 that his passport application made on 18 April 2012 had been withdrawn and he was advised to make another application. He applied on 16 April 2015 for his first British passport, but on that occasion did not send supporting documents as he had sent them all with his previous

application. On 14 September 2015 he was informed again by HMPO that his passport application had been withdrawn because his British citizenship was being reviewed. At that time he had believed that all investigations had been concluded. However he was advised on 22 September 2015 that documents had come to light indicating that he was born in Kenya and that his status was therefore being reviewed. He was informed on 9 October 2015 that he had failed to declare, in his application for naturalisation on 6 May 2011, that he had gained ILR and British citizenship in the identity of Nasser Yasser Nasser. He made representations denying the allegations but was told on 18 August 2020 that the Home Office was considering depriving him of his citizenship as she considered his genuine identity to be Mbarak Awadh Abdalla, born on 20 June 1980 in Mombasa, Kenya.

7. The appellant maintains that he is Mbarak Awadh Abdallah, born on 3 February 1979 in Kismayo, Somalia, that his asylum claim was true and genuine, and that he had provided his genuine Somali birth certificate to the DVLA at the time he applied for, and was issued with, his provisional driving licence, that he had never made a student visa application in a Kenyan identity despite the similarity in the applicant's name and parents' names, that he knew the original Nasser Yasser Nasser but had never gained ILR or British citizenship in that identity and had never been known by that identity and that it was Twaha Ahmed Salim who had used that identity. He claims that deprivation of his British citizenship would leave him stateless as he was not a Kenyan national and would be in breach of his Article 8 human rights, and that the respondent had mistreated him and provided false and misleading information.

The Respondent's Case

8. The respondent considers that the appellant is Mbarak Awadh Abdalla, born on 20 June 1980 in Mombasa, Kenya, and that he has used two false identities, namely Mbarak Awadh Abdalla, born on 3 February 1979 in Kismayo, Somalia and Nasser Yasser Nasser, born on 19 November 1979 in Kismayo, Somalia, and obtained British nationality in both false identities. The respondent's conclusion on the appellant's true identity is based upon a student visa application made in Nairobi on 22 February 2001 and a Kenyan birth certificate obtained from the British High Commission in Kenya.

9. For some unknown reason, the respondent appears to have made two identical decisions, the first dated 22 February 2021 and the second dated 4 March 2021. In that decision, the respondent set out the background to the appellant's use of both false identities, as follows.

10. The real Nasser Yasser Nasser, born on 19 November 1979 in Kismayo, Somalia, entered the UK on 13 May 2000 and claimed asylum on 6 June 2000. His asylum claim was refused on 29 June 2000 but he was granted four years' leave to remain valid until 10 August 2004. That was the last time the respondent believed that they heard from him.

11. The real (as the respondent believes) Mbarak Awadh Abdallah, born on 20 June 1980 in Mombasa, Kenya, applied for a student visa in Nairobi, giving his nationality as Kenyan and stating his parents' names as Awadh Abdalla Mbarak and Zuleikha Awadh Abdalla, and was issued with a visa on 14 March 2001, valid until 20 December 2001 which was placed in his Kenyan passport.

12. The false (as the respondent believes) Mbarak Awadh Abdallah, claims to have been born in Kismayo, Somalia on 3 February 1979 and claims to have entered the UK clandestinely on 24 April 2001. The rest of the details are as claimed by the appellant, as set out above. The respondent referred to the appellant's travel document application made on 16 April 2005, noting that the photograph attached to the

application was the same as that used in an application dated 20 March 2005 for ILR in the identity of Nasser Yasser Nasser born on 19 November 1979 in Somalia. The respondent noted that on 18 April 2005 the appellant wrote to the travel document section requesting priority, stating that his uncle had died in Mombasa, Kenya and he needed to attend at the hospital for the formalities to be completed to release the body, and enclosing a letter from a doctor. The respondent noted that a photograph attached to the appellant's application of 17 February 2007 for leave as the spouse of a person settled in the UK, on form SET(M), bore the same resemblance as that submitted with the travel application form on 4 October 2005 for Nasser Yasser Nasser born on 19 November 1979 in Somalia and provided the same contact details. The respondent noted further that the same telephone number was given in the appellant's Form AN application of 3 May 2011 for naturalisation as a British citizen, as that used in the application for a British passport made on 28 November 2007 in the identity of Nasser Yasser Nasser born on 19 November 1979 in Somalia. The respondent noted that the appellant had ticked the Good Character Requirement box in his application for naturalisation and that Mbarak Awadh Abdalla born in Kismayo, Somalia on 3 February 1979 became a British citizen on 24 January 2012.

13. The false Nasser Yasser Nasser born on 19 November 1979 in Kismayo, Somalia made an application on 6 June 2001 for a travel document but the respondent noted that the signature was different to that used previously by the real Nasser Yasser Nasser. On 20 March 2005, according to the respondent, the appellant made an application for indefinite leave to remain in the identity of Nasser Yasser Nasser born on 19 November 1979 in Somalia, and with a signature which matched the signature used for the travel document application. The application was successful and indefinite leave to remain was granted to Nasser Yasser Nasser born on 19 November 1979 in Somalia. According to the respondent, the appellant applied on 4 October 2005 for a travel document in the identity of Nasser Yasser Nasser born on 19 November 1979 in Kismayo, Somalia, giving as his address for the return of the document the same address as used in the Form FLR(M) in the identity of Mbarak Awadh Abdalla born in Kismayo, Somalia on 3 February 1979, and in the same handwriting as the travel document application made in that identity. According to the respondent, the appellant wrote to the travel document section requesting priority for the travel document, stating that he had to travel to Mombasa, Kenya to arrange his grandfather's funeral. The respondent noted that the appellant provided with that application a letter from the same doctor as that in the travel document application made in the identity of Mbarak Awadh Abdalla born in Kismayo, Somalia on 3 February 1979 and the same death certificate provided for his claimed uncle in that application. A temporary travel document was issued in the Nasser Yasser Nasser identity.

14. According to the respondent, the appellant applied on 28 March 2007 to become a British citizen, on Form AN, using the identity details of Nasser Yasser Nasser born on 19 November 1979 in Somalia. It was noted that he gave as his address the same address used in his application for leave to remain in Form FLR(M) and the travel document application in the identity of Mbarak Awadh Abdalla born in Somalia on 3 February 1979. He ticked the Good Character Requirement box and attached a photograph, which was the same as that used when applying as a spouse in the form SET(M) submitted on 17 February 2007, in the identity of Mbarak Awadh Abdalla born in Kismayo, Somalia on 3 February 1979. His application was successful and Nasser Yasser Nasser born on 19 November 1979 in Somalia became a British citizen on 27 November 2007.

15. On 28 November 2007 an application was made for a British passport in the identity details of Nasser Yasser Nasser born on 19 November 1979 in Somalia, with a photograph attached which was the same as that used by the appellant when applying as a spouse in the form SET(M) submitted on 17 February 2007, in the identity of

Mbarak Awadh Abdalla born in Kismayo, Somalia on 3 February 1979. A British passport was issued to Nasser Yasser Nasser born on 19 November 1979 in Somalia on 22 December 2007 valid until 22 December 2017. On 13 May 2008 a change of name deed was submitted to HMPO (according to the respondent, by the appellant) to change the name on the British passport to Mbarak Awadh Abdallah, which was successful.

16. On 9 October 2015 the Home Office wrote to the appellant, addressed to Mbarak Awadh Abdallah born on 3 February 1979, with an investigation letter, advising him that the Secretary of State had reason to believe that he had obtained his British citizenship status as a result of fraud, as there was evidence that he had gained ILR and British citizenship in the identity of Nasser Yasser Nasser and had failed to declare the deception when applying to naturalise in his own identity on 6 May 2011. The appellant was advised that consideration was being given to depriving him of his British citizen status. On the same date the Home Office wrote to the appellant, addressed to Nasser Yasser Nasser born on 19 November 1979, with an investigation letter advising him that the Secretary of State had reason to believe that he had obtained his British citizenship status by using false particulars and advising him that his British citizenship could be deemed null and void. The respondent advised the appellant that it was considered that his true identity was Mbarak Awadh Abdallah. On 26 October 2015 the appellant responded in the identity of Mbarak Awadh Abdallah born on 3 February 1979 to the two investigation letters, claiming not to have ever obtained ILR in the UK and British citizenship in the name of Nasser Yasser Nasser born on 19 November 1979 and not to have ever used that name.

17. However the respondent considered that there was photographic proof of both identities being used, as well as the same details being used for both identities. The respondent noted that the appellant was claiming to have developed mental health problems over the past three years as a result of the investigation. A further investigation letter was sent to the appellant on 18 August 2020, to which he responded on 2 September 2020, stating that his correct identity was Mbarak Awadh Abdallah born on 3 February 1979 and not Mbarak Awadh Abdalla born on 3 June 1979 in Mombasa, Kenya as alleged. The appellant accepted that he had made a travel document application which was granted in May 2005 and the respondent noted that the photograph in that application was the same as used in the application for ILR in the identity of Nasser Yasser Nasser born on 19 November 1979 in Somalia. The respondent considered that the appellant would not have been granted any form of leave if his deception had been known at the time.

18. A further investigation letter was sent to the appellant on 22 October 2020 to which the appellant responded on 11 November 2020. The respondent requested that the appellant provide his original Somali birth certificate and copies of documents used when he married his spouse Salma Omar Ali on 29 January 2004. The appellant replied that he did not know where his Somali birth certificate was and that he could not remember which documents he had used when he married his wife. The respondent then sent a further investigation letter to the appellant on 13 November 2020 to which the appellant responded on 30 November 2020, stating that he had no proof of his Somali identity but that he had submitted his birth certificate to the Home Office when he entered the UK in 2001 and claimed asylum. The respondent confirmed that she had a copy of the genuine birth certificate on file, showing the true identity to be Mbarak Awadh Abdalla born on 3 June 1979 in Mombasa, Kenya, and concluded that the appellant's asylum claim had been a complete fabrication.

19. The respondent considered that the appellant had perpetrated a deliberate fraud against the UK immigration system and had employed deception to obtain status that would not have been granted to him if the truth had been known. The respondent

considered that the Good Character Requirement would not have been satisfied had his deception been known and his application to naturalise would have been refused. The respondent did not accept that the appellant had provided a plausible, innocent explanation for the misleading information which led to the grant of citizenship and concluded that the deprivation would be reasonable and proportionate. Having also given consideration to Article 8 of the ECHR and to the best interests of the appellant's children, the respondent concluded that it was reasonable and proportionate to deprive the appellant of his British citizenship.

20. In a supplementary decision of 2 September 2021 the respondent responded to the appellant's claim that he had never used the identity of Nasser Yasser Nasser and that he had been the victim of an imposter, Twaha Ahmed Salim, who had used his identity fraudulently. The respondent rejected the appellant's claim on the basis that he had been convicted on 17 September 2014 and sentenced to 12 months' imprisonment on charges relating to his use of the identity of Nasser Yasser Nasser born on 19 November 1979 in Somalia. Further, the respondent noted that the photographs attached to the application made on 30 November 2007 for a British passport in the identity of Nasser Yasser Nasser born on 19 November 1979 in Somalia, and to the application for a change of name deed on 13 May 2008 to change the name from Nasser Yasser Nasser to Mbarak Awadh Abdallah, were that of the appellant. The respondent therefore considered that it was proportionate to pursue the deprivation of British citizenship for Nasser Yasser Nasser and Mbarak Awadh Abdallah, as they were acquired as a result of fraud.

Appeal before First-tier Tribunal

21. The appellant's appeal was heard by First-tier Tribunal Judge Landes and was linked together with that of his wife who was also appealing against a deprivation decision made on a similar basis. In his wife's case the respondent considered that she had used a false Somalia identity from the outset in the UK in which she gained asylum/ILR and then naturalised as a British citizen, whereas she was in fact a Kenyan national, and that she had used her husband (under the name of Nasser Yasser Nasser) as a referee.

22. There were two case management review hearings before Judge Landes, on 7 July 2021 and 6 October 2021, prior to the full hearing on 17 November 2021, at which the appellants appeared in person, without a legal representative. The respondent's supplementary decision of 2 September 2021 was made after the first case management review hearing, in response to points raised by the appellant and at the judge's direction.

23. In a decision promulgated on 9 February 2022, Judge Landes allowed the appeal of the appellant's wife, finding that, whilst the respondent was entitled to conclude that the condition precedent for deprivation had been satisfied in relation to her use of the false Nasser identity as a referee in her British citizenship application, there were various significant factors in the Article 8 assessment which rendered the deprivation decision disproportionate in her case. However, the judge dismissed the appellant's appeal.

24. With regard first of all to the allegations made by the respondent in relation to the Mbarak Awadh Abdallah identity, the judge concluded that the respondent was entitled to find that the appellant had used a false identity throughout, saying that he was a Somali national born in Somalia at risk of persecution, when he was in fact a Kenyan national born in Kenya. She concluded further that the appellant had been deceptive by using those false details. However she found that that deception was not material to the grant of British citizenship since his claim to be Somali had never been

accepted, he had been granted leave to remain outside the immigration rules and the grant of indefinite leave to remain had been made on the basis of his length of residency in the UK. She concluded that the condition precedent for deprivation had therefore not been met on that basis. However, with regard to the Nasser Yasser Nasser allegations, the judge found that the respondent was entitled to conclude that the appellant had made an ILR application in the name of Nasser and that the allegations in regard to the Nasser identity were potentially relevant to good character. She rejected the appellant's argument that, since he did not do what he was alleged to do and had not been convicted at the time he completed the naturalisation application, he was correct in answering the good character questions in the way that he did, and she concluded that the respondent was entitled to conclude that the appellant had obtained his British citizenship in the name of Abdallah through fraud. She found that the fraud was material to the grant of citizenship since he would not have been granted citizenship in that name if it had been known that he had made a false statement to obtain a passport in the name of Nasser, and that the condition precedent for deprivation of citizenship was therefore met. Unlike with his wife, the judge found that the deprivation decision was proportionate and did not breach the appellant's Article 8 human rights.

25. The appellant sought permission to appeal against Judge Landes' decision to the Upper Tribunal. Permission was granted in the First-tier Tribunal on the following basis:

"... 3. The finding that the precedent fact was established related to the use of the identity Nasser and the convictions that the appellant had. The grounds assert that the judge left matters out of account in assessing the appellant's case. It must be remembered that the Tribunal's function in deprivation cases is to review the decision of the respondent on grounds similar to public law grounds. The judge referred to the production of the PNC and that the respondent maintained that the 5 charges to which the appellant had been convicted related to the identity of Naser. The judge acknowledges that the respondent had left out a large part of the picture relating to the use of the Naser identity (see paragraph 47). The judge reviewed the evidence relating to Twaha and the use by him of the identity of Naser but the respondent did not refer to this and it does not appear that it formed part of the respondent's decision letter (see paragraph 46 of the decision of the judge). Having reviewed all the evidence the judge concluded on the evidence presented that it was a reasonable conclusion that the convictions were related to the use of the identity of Naser by the appellant (see paragraph 60).

4. The judge set out at paragraph 22 the principles to be applied in deprivation cases. The first aspect is to consider whether the SSHD has acted in a way in which no reasonable SSHD could have acted, or has disregarded something to which he should have given weight to or guilty of some procedural impropriety. The grounds argue, in summary, that the SSHD has disregarded matters and was guilty of procedural impropriety. (see also paragraph 45 of the decision). It is arguable that the judge did not give any conclusions regarding this aspect rather than reviewing the material evidence herself and considering whether the decision was a reasonable one in the light of that material."

26. The matter then came before me for a hearing and both parties made submissions. The appellant relied upon a skeleton argument submitted prior to the hearing and made submissions before me expanding upon his grounds of appeal. I shall refer to and address the submissions made by both parties in my discussion below.

Discussion

27. As First-tier Tribunal Judge Burnett observed when granting permission, some of the appellant's grounds take issue with matters which were ultimately found in favour of the appellant, namely the challenges to the judge's conclusions in relation to his use of a false identity as a Somali national, and Judge Burnett therefore made no further comment about those grounds. Indeed, such matters also formed part of the appellant's submissions before me and his skeleton argument including at [46(b)] whereby he asserted that the judge had misdirected herself in her conclusions on the appellant's Kenyan nationality, at [48] in relation to the birth certificate submitted to the DVLA, and at [57(a)] in relation to the Kenyan birth certificate. Given that the judge accepted that the precedent fact was not made out on that basis, such a challenge is immaterial and there is no need to address it further, although I would say that I do not find the challenge to have any merit in any event. It seems to me that the judge took account of all the relevant evidence and the arguments made by the appellant and provided cogent reasons for concluding that he had lied about his nationality. She was perfectly entitled to reach that conclusion.

28. The more relevant challenge to the judge's decision is in relation to her findings on the use of the Nasser Yasser Nasser identity, in so far as her findings on that issue impacted on the decision to deprive him of his British citizenship acquired in the name of Mbarak Awadh Abdallah born on 3 February 1979 in Somalia. The appellant states that he is not interested or concerned as to the British citizenship deprivation decision in the Nasser identity, since he denies having had any involvement in the acquisition of citizenship in that identity or having derived any benefit from that grant of citizenship. It makes no difference to him and matters not, he says, if that citizenship is revoked. His issue is with the deprivation of British citizenship which he says was granted to him in his true and genuine identity and upon a genuine and proper basis.

29. With regard to the first ground of appeal, the appellant's first submission was that the judge had failed to consider that the deprivation decision was in relation to two identities, namely Nasser Yasser Nasser born 19 November 1979 in Kismayo, Somalia and Mbarak Awadh Abdallah born on 3 February 1979, and that they were two separate matters. He submitted that the respondent's deprivation decision in respect of his identity as Mbarak Awadh Abdallah born on 3 February 1979 was only based upon him having allegedly presented a false case to the Home Office about his nationality, and not upon fraud arising from a declaration of being of good character in his citizenship application as Mbarak Awadh Abdallah born on 3 February 1979, and that the judge erred by considering otherwise at [69]. However the appellant is clearly wrong in that regard. Judge Landes was fully aware that a deprivation decision had been made in relation to two separate identities. However, as she properly found, the deprivation decision relating to the identity of Mbarak Awadh Abdallah born on 3 February 1979 involved two strands, the first of which related to Mbarak Awadh Abdallah's use of a false Somali identity and the second of which was the deception involved in Mbarak Awadh Abdallah stating in his application for naturalisation that he was a person of good character when he was fully aware that he had been fraudulently involved in making an application for naturalisation, for a British passport, for a change of name in the passport and for ILR in the name of Nasser Yasser Nasser. Contrary to the appellant's assertion, the latter plainly formed part of the respondent's reasons for making the deprivation decision, and the judge properly found that to be the case at [65] and [69] of her decision, with reference to paragraphs 39 and 51 of the respondent's decision.

30. The appellant submitted further that Judge Landes erred in concluding that he had lied about being a person of good character, given that at the time he made that declaration he believed that he was a person of good character. That was, he says,

because he had not committed the fraudulent acts of which he was accused by the respondent, that he had not, at that time, been charged with or convicted of any criminal activity and was not being investigated at that time. However that was a matter fully and properly dealt with by the judge at [66] to [69]. The appellant submits that the judge, in her findings in those paragraphs, wrongly interpreted his reliance upon the case of Pirzada (Deprivation of citizenship: general principles) [2017] UKUT 196 as being an argument on the violation of his privilege of self-incrimination. However that was precisely how the appellant had formulated his argument at [52] of his 4 October 2021 skeleton argument and the judge was therefore perfectly entitled to respond to the submission as she did at [66] and [67] of her decision. In any event she went on, at [69], to consider the appellant's claim that he had answered the question on good character on what he considered to be the correct basis at that time and she rejected that claim for reasons fully and properly open to her.

31. At [46(d)] of his skeleton argument, the appellant submitted that the judge misdirected herself at [59], [60] and [64] by finding that the respondent was entitled to deem that his criminal convictions related to the application for British citizenship in the identity of Nasser, when there was no evidence to show that that was the case. However the judge was perfectly entitled to rely on the respondent's supplementary refusal decision of 2 September 2021 which stated that the charges listed related to his fraudulent use of that identity. In addition, the judge gave cogent reasons at [59] to [61], based upon the dates of the offences referred to in the PNC print-out as compared to the dates of the various fraudulent applications made, for concluding that the convictions were in relation to the Nasser identity fraud. I also find no merit in the appellant's assertion at [46(h)] of his grounds, that there was procedural unfairness in the judge assessing the appellant's convictions as the determining factor of the appellant's conduct in relation to his application for British citizenship, and failing to give him an opportunity to respond to the allegation that he knew what offences he had committed at the time he made his good character declaration. The respondent's case in regard to the good character declaration had always been made very clear to the appellant and the supplementary refusal decision of 2 September 2021 provided further clarity by providing details of the offences for which he had been convicted. He was therefore well aware of the issues taken against him in that regard and had ample opportunity to respond to the allegations made. In any event the convictions themselves were not the sole determining factor of the appellant's conduct in relation to his application for British citizenship: the judge's findings in that regard were also based upon the photographs of the appellant which clearly and unequivocally linked him to the applications made in the Nasser identity, as is plain from [59], [60] and [64] of her decision.

32. Likewise, I find no merit in the appellant's assertion at [46(i)] of his skeleton argument that the judge misdirected herself in regard to what she ought to have concluded was procedural impropriety on the part of the respondent. That was in fact the basis for the grant of permission by First-tier Tribunal Judge Burnett who considered that the judge had arguably failed to give any conclusions as to the respondent's conduct in that regard, with reference to [45] of Judge Landes' decision. However the matters at [45] were carefully considered by Judge Landes. At [46] and [47] she agreed that the respondent's failure to provide a complete picture, in particular with regard to the part that Twaha played in the fraud, was indefensible and she considered that more complete picture herself on the evidence before her. However, she did not simply review the material herself, as the grant of permission considered was arguably the case, but she went on at [116] and [117] to consider the materiality of the respondent's conduct, its impact upon the appellant and its impact upon the deprivation decision itself, and at [117] she provided cogent reasons for concluding that that conduct did not amount to procedural impropriety in the legal sense.

33. In so far as the appellant relies upon the case of Gjini, R (On the Application Of) v Secretary of State for the Home Department [2021] EWHC 1677 in asserting that the respondent's conduct in denying him a British passport and retaining his original identity documents prior to the final determination of his appeal against deprivation was unlawful, Judge Landes did what Gjini required her to do (paragraph 29) by considering the particular facts of the case and the weight to be given to that conduct, as she did at [117] and [127]. The circumstances in Gjini were very different to those of this appellant and the judge was perfectly entitled to come to the conclusion that she did.

34. The appellant's second ground of appeal repeats much of what was argued in the first ground. The appellant's challenge is primarily that, contrary to the decisions and guidance in Ciceri (deprivation of citizenship appeals: principles) Albania [2021] UKUT 238, the judge performed a fact-finding exercise rather than considering whether the condition precedent specified in section 40(3) existed and did not take proper account of the respondent's failure to consider all relevant matters. However that is clearly not the case. The judge directed herself at length, at [18] to [23], on the proper approach the Tribunal was to take, as set out in Begum, R. (on the application of) v Special Immigration Appeals Commission & Anor [2021] UKSC 7 and plainly followed that approach when making her decision. As discussed above, she had full regard to the respondent's failings and omissions in the deprivation proceedings and provided cogent reasons for concluding that they were not ultimately material to the decision reached. The appellant's grounds at [55] repeat the earlier argument that the respondent had made two separate and distinct decisions and that the judge had failed to consider that the allegations in relation to the appellant's involvement in the Nasser identity were only relevant to the deprivation decision relating to that identity. I refer to the discussion at [29] above rejecting that challenge.

35. In his third ground of appeal, the appellant asserts that the judge overlooked material evidence and material matters. The first matter referred to in that ground relates to the issue of the appellant's nationality and challenges the judge's approach to the Kenyan birth certificate. However, as mentioned at [27] above, that is not material given that the judge accepted that the precedent fact was not made out on that basis. In any event the challenge seems to be little more than an attempt to re-argue the matter and a disagreement with the weight the judge accorded to the evidence. The same can be said for the other matters and pieces of evidence referred to in the third ground at [57]. The judge clearly undertook a detailed assessment of all the documentary evidence and it was not necessary for her specifically to refer to each and every individual document. With regard to the evidence referred to at [57(b)], the judge had regard to the various assertions made by the respondent and the appellant with respect to the travel document application in the name of Nasser and the attached photograph, at [42(ii)] and [43(ii)] of her decision, and addressed the matter at [56], finding that the photograph was *not obviously the same* as that in the appellant's 2007 application for leave (not that it was *not* the appellant's picture, as the grounds assert). The judge carefully considered and compared photographs, signatures and addresses in the various applications and made findings open to her on that evidence. The assertions made by the appellant at [57] of his skeleton argument are essentially an attempt to offer alternative explanations on matters upon which the judge made cogently reasoned findings. They do not identify any errors made by the judge in her consideration of the evidence.

36. Likewise, the appellant's fourth ground, which asserts that the judge failed to resolve conflicts of fact on material matters, is little more than an attempt to re-argue various matters, some peripheral to the relevant issues, and to present alternative explanations for aspects of the case upon which the judge made adverse findings. Much of the challenge in the fourth ground relates to the judge's findings about the

appellant's Kenyan/ Somali identity and is therefore immaterial for the reasons given above, but in any event is little more than a disagreement with her conclusions. The latter half of the fourth ground is a list of complaints against the respondent including claims of harassment, deliberate withholding of information and deliberate attempts to mislead. Those claims were all considered by the judge, at [45] and thereafter. She had full regard to the fact that there had been omissions made by the respondent and delays in the proceedings, and she accorded the relevant weight to such concerns, but she gave full and cogent reasons for rejecting the claim that there had been deliberate harassment and provided cogent reasons for concluding that the respondent's failings were not such as ultimately to undermine the deprivation decision. The fifth and sixth grounds are simply repeats of the various assertions made in the previous grounds and which I have already addressed above.

37. For all of these reasons I do not find any merit in the grounds. Despite the length of the grounds and skeleton argument the appellant's challenges to Judge Landes' decision are largely attempts to re-argue his case and disagreements with the conclusions she reached. I would point out that at the hearing I did not have the benefit of having had an opportunity to examine the evidence and the judge's analysis of the evidence in as much detail as I now have and there was therefore some discussion as to the disposal of the appeal in the event that I found that Judge Landes had not considered all matters fully and properly. That discussion involved some concerns about the further identity, of Mbarak Awadh Abdallah born on 19 November 1979 (as opposed to the appellant's claimed identity with a date of birth of 3 February 1979), which may not have been dealt with properly by the respondent. However, having now had the benefit of a full opportunity to consider all the documentary evidence and the appellant's various skeleton arguments, it seems to me that that is a matter which was properly dealt with by Judge Landes. She referred to it at [42(vi)] and [43(vi)] and addressed the matter at [61], where she essentially concluded, as she was perfectly entitled to do, that it did not impact materially upon the conclusions otherwise reached about the appellant's conduct.

38. Accordingly, I find no basis for concluding that there were matters not properly considered by Judge Landes. On the contrary, her decision is a particularly detailed and comprehensive one. It is evident that she undertook a painstaking assessment of all the evidence and carefully analysed the concerns made by the appellant, applying the relevant legislative framework and the principles and guidance set out in the relevant and most recent authorities. Her findings and conclusions were cogently reasoned and the decision that she reached was fully and properly open to her on the evidence before her. I find no errors of law in her decision and I therefore uphold her decision.

Notice of Decision

39. The making of the decision of the First-tier Tribunal did not involve an error on a point of law requiring it to be set aside. The decision to dismiss the appeals stands.

Signed: S Kebede
Upper Tribunal Judge Kebede

Judge of the Upper Tribunal
Immigration and Asylum Chamber

10 March 2023