



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

Appeal Number: AA/01672/2014

THE IMMIGRATION ACTS

**Heard at Sheldon Court, Birmingham
On 9th June 2014**

**Determination Sent
On 29th July 2014**

Before

**UPPER TRIBUNAL JUDGE COKER
DEPUTY UPPER TRIBUNAL JUDGE MCCARTHY**

Between

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

And

RIDA AHMED MUSA ASKAR

Respondent

Representation:

For the Appellant: Mr D Mills Senior Home Office Presenting Officer
For the Respondent: Mr V Madanhi of Bake & Co

DETERMINATION AND REASONS

1. The appellant (hereafter the SSHD) appeals a decision of the First-tier Tribunal, which allowed the respondent's (hereafter the claimant's) appeal against a decision to remove him as an illegal entrant dated 21st February 2014. The claimant had applied for asylum, such claim being refused for reasons set out in a letter dated 21st February 2014.

2. Permission to appeal had been granted on the basis that it was arguable that the First-tier Tribunal Judge had erred in law in failing to follow the guidance of the Upper Tribunal in RB [2010] UKUT 329 which was generally upheld by the Court of Appeal in RB [2012] EWCA Civ 277. Permission was further granted on the grounds that it was arguable that the First-tier Tribunal judge had failed to give adequate reasons for finding the claimant's account plausible and failing to make findings on significant credibility issues that were before her.

Background

3. The claimant claimed to be an undocumented Kuwaiti Bidoun and thus at risk of being persecuted for a Convention reasons and in need of international protection; the SSHD asserted that he was Egyptian.
4. The claimant claimed he had been arrested at his employer's address in February 2007, the evening after he had been out graffitiing; detained for two months; beaten on a daily basis and then released after he agreed to inform on other Bidoun activists. A number of discrepancies in his claim for asylum are set out in the reasons for refusal letter including
 - i. Different addresses at which he claimed to have lived in Kuwait;
 - ii. Whether he was unemployed or a shepherd;
 - iii. Whether he had been arrested on the first occasion he had graffitiied or on the second occasion.
5. The claimant undertook a *Sprakab* language analysis interview the preliminary results of which were that he was, with high certainty, likely to have a linguistic background from Egypt. This was put to him during his asylum interview and he is recorded to have responded that he had been out of the country since 2007 and had not mixed with Kuwaitis.

Error of law

6. Before us Mr Mills stated that in the light of the Supreme Court judgment in MN and KY [2014] UKSC 30 he was no longer relying on ground 1 of the grounds upon which permission to appeal had been granted.
7. He stated that he continued to rely upon ground 2 but had little to add in submissions to that which appeared in the grounds. He acknowledged that Ground 2 in essence flowed from ground 1, namely the failure by the First-tier Tribunal judge to place any weight upon the *Sprakab* report but despite this he submitted that the issues raised in the reasons for refusal letter had been inadequately considered by the judge and inadequate reasons given by her in allowing the appeal.
8. We did not consider it necessary to call upon Mr Madanhi and dismissed the SSHD's appeal and we now give our reasons.

9. The reasons for refusal letter identified a number of issues where the SSHD considered the claimant's account was not credible. The judge considered the evidence before her and reached reasoned findings on why she accepted the appellant's account as regards the discrepancies in his account regarding employment; the number of occasions he went out graffitiing and with regard to his detention. In reaching those findings she totally disregarded the *Sprakab* report, which as referred to earlier, Mr Mills no longer sought to rely on.
10. Although we asked Mr Mills to identify with particularity the credibility challenges that remained given the lack of challenge to the dismissal of the *Sprakab* report, Mr Mills was content to rely upon the reasons for refusal letter only.
11. In the absence of challenge to the claimant's nationality and ethnicity, the remaining challenges to his account were adequately considered and reasoned, albeit briefly, and adequate reasoned findings given by the First-tier Tribunal judge for her conclusion that the claim for international protection was made out.
12. Accordingly we find no error of law in the determination and dismiss the SSHD's appeal. We uphold the First-tier Tribunal decision to allow the claimant's appeal against the decision to remove him from the UK.

13. Conclusions:

The making of the decision of the First-tier Tribunal did not involve the making of an error on a point of law.

We do not set aside the decision

The decision of the First-tier Tribunal judge stands.

Date 28th July 2014

Judge of the Upper Tribunal Coker