



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

Appeal Number: IA/30093/2013

**THE IMMIGRATION ACTS**

**Heard at Field House**

**On 24 July 2014  
Prepared 24 July 2014**

**Determination  
Promulgated  
On 30 July 2014**

**Before**

**UPPER TRIBUNAL JUDGE MCGEACHY**

**Between**

**KAMEL MECILI**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: None

For the Respondent: Ms A Holmes, Senior Home Office Presenting Officer

**DETERMINATION AND REASONS**

1. The appellant, a citizen of Algeria born on 15 July 1981 appeals, with permission, against a decision of Judge of the First-tier Tribunal Beach who in a determination promulgated on 10 February 2014 dismissed the appellant's appeal against a decision of the Secretary of State not to grant

him indefinite leave to remain on the basis that he had lived, without leave, in Britain for a period of fourteen years.

2. At the hearing of the appeal before me there was no appearance by or on behalf of the appellant. I am satisfied from a perusal of the file that the notice of appeal had been sent to the appellant's solicitors and also to the appellant at his solicitor's address. In these circumstances I considered it appropriate to hear and determine the appeal in the absence of the appellant.
3. Before the judge the appellant and two friends gave evidence. His friends, Mr Nour Eddine Mouaci and Mr Abdelhamid Boussoussa gave evidence that they had known the appellant in 1998. The appellant relied on that evidence, together with evidence of working for a restaurant called the Postofolio Restaurant here over the relevant period as well as a letter from the Arab Advice Bureau stating that he had registered with them in 1998.
4. The judge considered all the evidence but having noted that the documentation from the restaurant gave the wrong name of the restaurant on the appellant's wages slips, HMRC documents and the employment contract found that she could place no weight thereon. Moreover she considered that the appellant's friends were vague and that they could give no reasons for being certain that they had met the appellant in 1998. Similarly there was nothing to back up the assertion in the letter from the Arab Advice Bureau that the appellant had been registered with them since 1998 particularly as it appeared that they destroyed their records after six years.
5. The judge therefore found that the appellant had not discharged the burden of proof upon him to show that he had lived in Britain, without leave, for fourteen years. She also considered that the appellant had not shown that his rights under Article 8 of the ECHR would be infringed by his removal.
6. The appellant applied for permission to appeal. Permission was refused by Judge of the First-tier Tribunal Brunnen on 9 April 2014. However the application was renewed and was granted by Upper Tribunal Judge Allen who stated that on balance he considered that there was "an arguable challenge to the findings concerning in particular the evidence of the appellant's two friends is made out. Arguably the decision in respect of their evidence in particular is inadequately reasoned." He went on to say that he saw less force in the other grounds of appeal.
7. I noted that the application for permission to appeal did not comply with the requirements of Rule 21(4) of the Tribunal Procedure (Upper Tribunal) Rules 2008 as the application form did not contain the appellant's own address. Leaving that, however, to one side I have considered the determination of the judge. I consider that she did look at all the evidence before her and considered it holistically. Her comments regarding the

documentary evidence from the appellant's employer was clear and apt and entirely open to her. Moreover, she gave proper reasons for her conclusion that she could not place weight on the letter from the Arab Advice Bureau. She also clearly found that the appellant's friends' evidence was lacking in detail and that the vagueness of the evidence meant that she could not find that it was sufficient for the appellant to have discharged the burden of proof.

8. All her findings were, I consider, entirely open to her and I therefore find that there was no material error of law in the determination of the Judge of the First-tier Tribunal.
9. Accordingly her decision shall stand and this appeal is dismissed on both immigration and human rights grounds.

Signed

Date

Upper Tribunal Judge McGeachy