



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

Appeal Number: AA/07115/2014

THE IMMIGRATION ACTS

Heard at Field House

Decision & Reasons

On 27 July 2015

Promulgated

On 3 August 2015

Before

UPPER TRIBUNAL JUDGE BLUM

Between

**A. M. A.
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr D Bazini, Counsel instructed by Hackney Law Centre
For the Respondent: Mr E Tufan, Home Office Presenting Officer

DECISION AND REASONS

Background

1. This is the appeal of A M A. He claims to be a citizen of Syria born on 5 May 1998. The appellant maintains that he entered the United Kingdom on 5 September 2013 and he claimed asylum on 7 November 2013. The respondent refused the appellant's asylum claim on 15 August 2014 but, because the appellant was an unaccompanied child, he was granted leave

to remain pursuant to the Secretary of State's policy on unaccompanied children. The appellant appealed under Section 83 of the Nationality, Immigration and Asylum Act 2002 against the refusal to grant him asylum. His appeal was heard on 14 November 2014 by Judge of the First-tier Tribunal Easterman. The decision was not promulgated however until 9 April 2015.

Decision of the First-tier Tribunal

2. The Secretary of State refused the appellant's claim for asylum on the basis of a SPRAKAB Report dated 24 March 2014. The report concluded that the appellant was not a citizen of Syria and was in fact Egyptian. The analysis of the appellant's language included consideration of phonology and prosody, morphology and syntax, lexis and his knowledge of Syria. The SPRAKAB analysts concluded to a very high degree of certainty that the appellant came from Egypt and not Syria.
3. In his determination the judge indicated that he approached the report with a degree of caution. At paragraph 55 of his determination the judge bore in mind that the respondent did not appear to have informed SPRAKAB, or if they did, SPRAKAB had failed to note, that the appellant was a minor at the time of the interview. This is apparent from the second page of the SPRAKAB Report which identified appellant as a man, a square box indicating whether he was a minor or not was not ticked, and at 1.3 of the report the appellant is again identified as a man.
4. At paragraph 57 of his determination the judge noted that the linguistic element of the SPRAKAB Report appeared to be compiled by people who had relevant qualifications in linguistics. The judge noted that he did not see the analyst as an expert in what people in the particular part of Syria from which the appellant claimed he hailed would eat for breakfast nor whether all schools in that area necessarily had a uniform.
5. The judge noted at paragraph 58 of his determination the appellant's explanation for the conclusions of the language analysis. The appellant claimed that he watched a lot of television from Egypt and must have picked up expressions from there. The judge did not find it credible that so many different details had been picked up by the linguists which were consistent with Arabic as spoken in Egypt and were inconsistent with Arabic as spoken in Syria. The judge also relied on the absence of rebuttal evidence from the appellant in respect of geographical differences between his account and the information provided through the SPRAKAB analysis. The judge dismissed the appeal. The date of his dismissal was 7 April 2015.

The Grounds of Appeal and Discussion

6. The grounds of appeal to the Upper Tribunal are twofold. It is first submitted that the delay of nearly five months, in the absence of any explanation, constitutes an error of law. It is said that the delay between the date of hearing and assessment is unacceptable and therefore

unlawful. Reliance is put on the case of **Mario v Secretary of State for the Home Department [1998] Imm AR 281.**

7. I am not satisfied that this ground is made out. It is clear from the authorities of **Secretary of State for the Home Department v RK (Algeria) [2007] EWCA Civ 868** and **Arusha and Demushi (deprivation of citizenship - delay) [2012] UKUT 00080 (IAC)** that there must be a nexus between the delay and the safety of the decision. The appellant has not identified any factual inaccuracy in the judge's assessment. The appellant has not identified any omission in respect of the appellant's account or explanation for the SPRAKAB Report results. The case is not a particularly complex one and the nature of the credibility assessment by the judge very significantly dependent on consideration of matters external to the evidence given by the appellant at the hearing, so it was not dependent on the appellant's bearing or demeanour.
8. I am however concerned in respect of the failure by the analysts in the SPRAKAB Report to appreciate or take account of the fact that the appellant was a minor when he was interviewed.
9. At page 2 of the SPRAKAB Report, under the heading 'Basis for analysis', there are several identifying characteristics in relation to an interviewees background and several boxes that need to be ticked. The box next to the word 'man' is ticked, however the box next to the word 'minor' is not ticked. I am satisfied from this that the age of an interviewee may be of relevance not just in respect of the knowledge assessment but in respect of the linguistic assessment as well. I am reinforced in this by reference to 1.3, the summary of findings, where the analyst indicated that the appellant was a man when in fact the appellant was a minor at the time. The linguistic analysis pre-supposed the appellant was a man. He was however 16 years old when interviewed. It is not clear what, if any, difference this disparity between adult and minor would have made but this is an asylum claim and one in which anxious scrutiny must be applied to all aspects of the appeal.
10. I am satisfied that it was, or at least appears to have been, significant to the SPRAKAB analysts to know if an interviewee was a minor or an adult. The judge clearly did take this into account at paragraph 55 of his determination but nevertheless concluded that the linguistic analysis was safe. I am not satisfied that the judge was entitled to conclude this aspect of the SPRAKAB Report safe. It may well be that the difference of two years between a 16 year old and an 18 year old would have made no difference whatsoever to an analyst's ability to analyse the an interviewee's language but, applying the anxious scrutiny test, It cannot safely be said that it would have made no difference.
11. I therefore find that it was unsafe for the judge to have placed the reliance he did on the SPRAKAB Report and that he consequently committed a material error of law. It logically follows that the SPRAKAB Report is not one that the Secretary of State can reasonably rely on and I exclude it from any subsequent consideration by the First-tier Tribunal.

Notice of Decision and Directions

The Judge made a material error of law in his determination.

I direct that the matter be remitted back to the First-tier Tribunal for a CMRH (a Case Management Review Hearing), so that the respondent can present her position on this appeal in circumstances where the present SPRAKAB Report is being excluded.

The full appeal hearing is to be heard by a judge other than First-tier Tribunal Judge Easterman.

Direction Regarding Anonymity - Rule 13 of the Tribunal Procedure (First-tier Tribunal) (Immigration and Asylum Chamber) Rules 2014

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 her 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.



31 July 2015

Signed

Date

Upper Tribunal Judge Blum