



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

Appeal Number: AA/08767/2014

**THE IMMIGRATION ACTS**

**Heard at Manchester Piccadilly  
On 27 May 2016**

**Decision & Reasons Promulgated  
On 13 July 2016**

**Before**

**UPPER TRIBUNAL JUDGE STOREY**

**Between**

**MR HAMAD ATSHANE  
(ANONYMITY DIRECTION NOT MADE)**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: Mr H Saddiqui, Adam Solicitors

For the Respondent: Mr G Harrison, Home Office Presenting Officer

**NOTICE OF ABANDONMENT**

1. The appellant obtained a grant of permission to challenge the decision of First-tier Judge Brunnen dated 17 May 2015 dismissing his appeal against a decision made by the respondent on 25 September 2014 to cancel his status as a refugee. The appellant had been granted refugee status on 27 March 2013 on the basis that he was an undocumented Bidoon from Kuwait.
2. At the outset of the hearing Mr Saddiqui explained that the appellant would not be attending because he had gone to Denmark to make contact with members of his family. Given that information I have no alternative but to treat the appellant's appeal as abandoned pursuant to s.92(8) of the Nationality, Immigration and Asylum Act 2002 which stipulates that

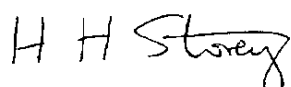
“when an appellant brings an appeal from within the United Kingdom but leaves the United Kingdom before the appeal is finally determined the appeal is to be treated as abandoned”.

3. I would record, however, my finding that had the appeal not been statutorily abandoned, I would have found an error of law and re-made the decision by allowing the appeal. My reasons (which concurred with those expressed by Mr Harrison for the respondent during discussion) would have been: (a) there has been no challenge to the judge’s finding that the appellant is a Bidoon from Kuwait; (b) under para 399A(viii) of the Immigration Rules a person’s grant of asylum will be revoked if “his misrepresentation or omission of facts including the use of false documents were decisive for the grant of asylum”; (c) on the judge’s unchallenged findings the appellant’s misrepresentation related to his claim that he was arrested and detained by the authorities in Kuwait (para 45); (d) the judge found that the respondent had failed to discharge the onus of proof on her to show that he was an Iraqi; (e) the respondent had failed to discharge the onus of proof on her to show that the primary basis on which the respondent granted the appellant asylum, that he was an undocumented Bidoon, has been undermined by subsequent evidence; (f) the fact that the appellant accepted before the judge that he and his family had been able to register in the censuses of 1970 and 1975 (paras 34 and 46) did not amount to a withdrawal of his claim to be an undocumented Bidoon since, on the authority of **NM (documented or undocumented Bidoon: risk) Kuwait CG [2013] UKUT 356** at (iv) of the head note:

“It must be assumed that Bidoon who did not register between 1996 and 2000, and hence did not obtain security cards, are as a consequence undocumented Bidoon, though this must be seen in the context of the evidence that most Bidoon carry security cards.”

This proposition remains uncontradicted by Home Office OGN issued in February 2014; (g) accordingly although the appellant did commit a misrepresentation it was not one that was “decisive” to the grant of asylum. My finding would thus have been that in failing to so find the First-tier Judge materially erred in law and her decision must be set aside.

4. For the same reasons the decision I would have re-made would have been to allow the appeal as the respondent had failed to discharge the burden of showing that the grant of asylum to the appellant should be revoked or cancelled.
5. For the above reasons,  
The appeal is statutorily abandoned.



Signed

Date: 13 July 2016

Dr H H Storey  
Judge of the Upper Tribunal