



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2022-003608

First-tier Tribunal No:
RP/50126/2021

THE IMMIGRATION ACTS

**Decision & Reasons Issued:
On 7 September 2023**

Before

UPPER TRIBUNAL JUDGE RINTOUL

Between

**A H
(ANONYMITY ORDER MADE)**

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Adebayo, A2 Solicitors

For the Respondent: Mr Walker, Senior Home Office Presenting Officer

Heard at Field House on 8 December 2022

Order Regarding Anonymity

Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, the appellant is granted anonymity.

No-one shall publish or reveal any information, including the name or address of the appellant, likely to lead members of the public to identify the appellant. Failure to comply with this order could amount to a contempt of court.

DECISION AND REASONS

1. The appellant appeals with permission against the decision of First-tier Tribunal Judge Moon promulgated on 1 July 2022, in which he dismissed the appellant's appeal against the decision of the Secretary of State made on 3 November 2021 to cancel his refugee status.
2. The background to the appeal and the procedural history up to that date is set out in detail in Judge Moon's decision.
3. In summary, the appellant had previously been granted refugee status on the basis that he was a stateless Bidoon from Kuwait. Subsequent to that, the Secretary of State received information that, prior to his arrival in the United Kingdom he had in 2013 applied for a US Visa from the US Embassy in Iraq, and had presented an Iraqi passport with that application. She was therefore satisfied that his refugee status had been obtained by deception. The appellant's explanation is that he had, prior to coming to the United Kingdom, he had obtained an Iraqi passport in a false name with the assistance of an agent
4. The judge heard evidence from the appellant, his wife and three additional witnesses. He also had before him an expert report from Dr George and bundles prepared by the parties.
5. The judge accepted [60] that the appellant had at interview been able to provide information about Kuwait and the situation of the Bidoon. He treated the evidence of the three additional witness with caution for the reasons set out at [61] and [62].
6. While accepting that it was possible to obtain an Iraqi passport by bribery, possibly by the use of false feeder documents, he did not accept that the appellant had no involvement with the process, nor was his account of being in a terrible situation in Iraq consistent with expense of obtaining a false passport.
7. The judge concluded [74] that the respondent had shown that the appellant had a genuinely issued Iraqi passport, and was not satisfied by the evidence that he had obtained it by bribery.
8. The appellant sought permission to appeal to the Upper Tribunal on the basis that the judge had erred:
 - (i) In not properly reasoning why she did not accept the evidence of the three witnesses;
 - (ii) In failing to make any findings in respect of the appellant's wife evidence;
 - (iii) In concluding that it was unlikely that a stateless Bidoon could not afford a false passport
 - (iv) In concluding that it was unclear why the appellant decided to flee Kuwait

9. On 3 August 2022, First-tier Tribunal Judge Cox granted permission on all grounds.
10. I heard submission from both representatives. Mr Walker submitted that none of the claimed errors were material, and that the decision should be upheld.
11. The appellant's wife's evidence was relevant as it confirms the appellant's account of living in Kuwait as a stateless Bidoon since they married in 2008. She stated also that the appellant's parents lived in Kuwait as stateless Bidoons, and are not Iraqis.
12. On any view these are matters relevant to whether the appellant's passport had been genuinely obtained, or whether it had been obtained by bribery. Contrary to what is submitted, there are no proper findings about this evidence.
13. Further, I consider that the reasons given for rejecting the evidence of the other witnesses are flawed. That Mr El- Anzi was not invited to the appellant's wedding is not proper reason for doubting his evidence, in the absence of questions being put to him about that, or what the traditions were. Further, what is stated at [61] rests on assumptions and speculation, not evidence, and there is insufficient evidence that this points had been put to the appellant or his representative.
14. Whether the appellant had lived all his life in Kuwait as a stateless Bidoon was clearly material to his account of how the Iraqi passport had been obtained, even if he himself was not believed.
15. For these reasons alone, I conclude that the findings with respect to the appellant's credibility, are unsustainable. It is therefore unnecessary for me to consider whether the other grounds are made out.
16. In the circumstances, I conclude that none of the findings of fact can be sustained, and that the appropriate course of action is to remit the decision to the First-tier Tribunal to be heard by a judge other Judge Moon as that is the only appropriate remedy.

Addendum

17. Finally, and entirely regrettably, although I gave my decision extempore on 8 December 2022, for reasons which remain unexplained, the recording was not given to the typists to be transcribed nor was it possible to trace it.

Notice of Decision

1. The decision of the First-tier Tribunal involved the making of an error of law and I set it aside. I remit the appeal to the First-tier Tribunal to be made afresh; none of the findings of Judge Moon are preserved.

Signed

Date: 18 August 2023

Jeremy K H Rintoul
Upper Tribunal Judge Rintoul