



**IN THE UPPER TRIBUNAL**  
**IMMIGRATION AND ASYLUM**  
**CHAMBER**

Case No: UI-2024-000211

First-tier Tribunal No:  
HU/55107/2023  
LH/03764/2023

**THE IMMIGRATION ACTS**

**Decision & Reasons Issued:**  
**On 8<sup>th</sup> March 2024**

**Before**  
**UPPER TRIBUNAL JUDGE NORTON-TAYLOR**  
**DEPUTY UPPER TRIBUNAL JUDGE BLACK**

**Between**  
**MOHAMED ALI SIYAHIA**  
**(NO ANONYMITY ORDER MADE)**

Appellant

**and**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Heard at Field House on 5 March 2024**

**Representation:**

For the Appellant: Mr R Dar, Solicitor acting as Agent for Joshi Advocates Ltd.  
For the Respondent: Ms A Everett, Senior Presenting Officer

## **DECISION AND REASONS**

### **Introduction**

1. The Appellant appeals with permission against the decision of First-tier Tribunal Judge Ruth (“the Judge”), promulgated on 15 December 2023. By that decision, the Judge dismissed the Appellant’s appeal against the Respondent’s refusal of his human rights claim. That claim was made on 11 January 2023 and the subsequent refusal was issued on 30 March 2023.
2. The Appellant is a national of Algeria, born in 1981. His human rights claim was based on his alleged unlawful continuous residence in the United Kingdom since 1998. He asserted that this residence entitled him to leave to remain under Appendix Private Life to the Immigration Rules, with specific reference to PL 5.1, which provides as follows:

PL 5.1. Where the applicant is aged 18 or over on the date of application:  
(a) the applicant must have been continuously resident in the UK for more than 20 years; or  
(b) where the applicant has not been continuously resident in the UK for more than 20 years, the decision maker must be satisfied there would be very significant obstacles to the applicant’s integration into the country where they would have to live if required to leave the UK.
3. The Appellant claimed to have used two aliases whilst in the United Kingdom: “Farid Zahra” and “Nouar Soussi” and he relied on documentary evidence in those names to establish his long residence in the UK.
4. The Respondent did not accept that the Appellant had in fact been continuously resident in the United Kingdom, as claimed. Further, the use of aliases meant that the Appellant granted leave to remain on suitability grounds.

### **Decision of the First-tier Tribunal**

5. The Judge set out the issues in the case, noted that a supporting witness had attended the hearing, and summarised the parties' submissions. He acknowledged that the various items of documentary evidence appeared to cover the period between 2001 and 2022. Importantly, he identified the "absolute centre and core" of the case as being the question of whether the documentary evidence in the two identities to which we have already referred in fact related to the Appellant: [10].
6. At [11] the Judge stated that there were no documents of any kind to confirm that the Appellant was the person named in any of the documentary evidence. He noted the absence of other potentially confirmatory evidence relating to identity. At [12] he concluded that the only evidence which might have linked the Appellant to the documentary evidence was his own word. The oral evidence was deemed to be "remarkably vague and limited" and that the Appellant's case had "essentially collapsed" during cross-examination. Ultimately, the Judge found that the Appellant's oral evidence had "singularly failed" to demonstrate that he had in fact resided in this country continuously for over 20 years.
7. The Judge considered the evidence from the witness, but regarding this as being of very limited value, even if it had been honestly provided: [13]. It was notable that no witnesses who had relevant knowledge of the documentary evidence were called to support the Appellant's case: [14].
8. Taking the evidence in the round, the Judge found that the Appellant had failed to make out his case on long residence: [15]-[16].
9. The Judge then went on to consider Article 8. The Judge concluded that "the most that could be said" was that the Appellant might have been residing in United Kingdom since 2004 (at the date of hearing, that point in time was short of the 20-year threshold): [20]. The adverse findings on the Appellant's primary case led the Judge to conclude that it was "very difficult" to reach firm conclusions about the depth and strength of the private life. In assessing proportionality, the Judge found that the Appellant could not meet any of the relevant Immigration Rules. Aside

from the long residence issue, the Judge found that there would not be very significant obstacles to the Appellant reintegrating into Algerian society: the Appellant had been educated in that country; and lived there during his childhood and formative years; spoke (Algerian) Arabic; and there were no significant medical problems: [27]-[28]. The Judge concluded that there were no additional features in the Appellant's case which justified success under Article 8: [29]-[30].

### **The grounds of appeal**

10. In summary, the grounds of appeal put forward the following arguments. First, it is said that a false French identity document in the name of Nouar Soussi was before the Judge and this linked the Appellant to documentary evidence. Secondly, the Judge did not ask any questions of the Appellant himself at the hearing and this rendered the outcome procedurally unfair. Thirdly, it is said that the Judge made "confused" findings as to the strength of the Appellant's private life. Fourthly, it is said that there is a tension between the Judge's rejection of the long residence claim and the finding that the Appellant had lived in Algeria for almost 20 years. Fifthly, it is said that the Judge had made an "unsafe" finding on Article 8.

### **The error of law bundle**

11. Following the grant of permission, the Upper Tribunal issued standard directions for the Appellant to file and serve a composite error of law bundle the Presidential Guidance on E-Filing and Electronic Bundles, dated 18 September 2023.

12. In the event, the error of law bundle (such as it was) was sent in late. Beyond that, the bundle was significantly non-compliant with the standard directions and the Presidential Guidance. The bundle itself was unhelpfully split into numerous parts. For reasons best known to the representatives, the index to the bundle was provided as a separate document and there was no index on any of the separate parts of the bundle. No bookmarks were provided, making it very difficult to navigate

around the relevant materials. No explanation for these deficiencies was provided.

13. All of this is simply not good enough. It is imperative that representatives do their level best to comply with the standard directions and Presidential Guidance. The directions are clear. There has now been ample time in which to adapt to the new system. If there are difficulties with filing the bundle on CE-File, contact should be made with the Tribunal's administrative staff.
14. In all the circumstances, we deemed it appropriate to direct that the Principal of Joshi Advocates Ltd. (who we believe is Mrs Joshi) attends the Tribunal in person at 10am on 18 March 2024, at which point she can provide an explanation and confirm to the Tribunal that processes are now in place to ensure that significant non-compliance does not occur in the future.

### **The hearing**

15. We received concise submissions from Mr Dar and Ms Everett, for which we are grateful.
16. Mr Dar relied on the grounds of appeal and a skeleton argument. He candidly accepted that there was no evidence before the Judge to link the Appellant to the identity of Farid Zahra. He sought to argue that the mere fact that the Appellant had the documentary evidence in the name of Farid Zahra was, of itself, sufficient for the Judge to have found in the Appellant's favour on the long residence issue. However, he recognised that this point was not contained in the grounds of appeal.
17. At the end of the hearing we announced our decision that the Judge had not materially erred in law and that his decision should stand. We now set out our reasons for that decision

### **Reasons**

18. The Judge was plainly right to have highlighted the central difficulty in the Appellant's case, namely the fact none of the documentary evidence was in his real name. He was equally right to have directed himself that it was for the Appellant to make out his case, on the balance of probabilities.
19. We conclude that the Judge was fully entitled to regard the evidence purporting to link the Appellant to either of the two identities as being "very thin on the ground indeed". In the first instance, we are satisfied that the Judge did have regard to all of the evidence to which he was referred. Assuming that the Appellant's representative at the hearing actually directed the Judge to the French identity document in the name of Nouar Soussi (this has not been made clear in the grounds of appeal), we are satisfied that the Judge was entitled to conclude, albeit implicitly, that the identity document was insufficient. After all, on his own evidence the appellant had accepted that the document was false. The mere fact that it apparently contained a photograph of the Appellant could not in any way have obliged the Judge to accept a link between the Appellant, the identity document, and/or the other documentary evidence. Overall, we conclude that the Judge did not commit any error of law.
20. Even if we were to conclude that the Judge had erred by overlooking the French identity document, such an error was plainly immaterial to the outcome of the long residence issue. The documentary evidence in the name of Nouar Soussi was limited in terms of the period of time covered: as far as we can discern, it ran from 2013 until 2022. In order to have succeeded on the 20-year case, the Appellant also had to rely on the documentary evidence in the name of Farid Zahra. As Mr Dar quite rightly acknowledged, there was no evidence linking the Appellant to that identity other than the oral evidence. The Judge was fully entitled to reject that oral evidence and was in turn equally entitled to conclude that the Appellant had failed to make out his primary case on the long residence issue.

21. There is no merit at all in the contention that the Judge acted unfairly by failing to ask any questions of the Appellant at the hearing. The Appellant was questioned by his own representative and that of the Respondent. The Appellant was clearly on notice as to the live issues in his case. There was no obligation on the Judge's part to ask additional questions.
22. For the avoidance of any doubt, we reject Mr Dar's tentative submission that the Appellant's possession of the evidence in the name of Farid Zahra was itself sufficient to prove his case. That point was not contained in the grounds of appeal and in any event has no merit. There might have been a variety of ways in which the Appellant obtained the documents and it was up to him to discharge the burden of proof.
23. As to the Judge's approach to Article 8 generally, we are satisfied that there are no errors here either. Having rejected the core of the Appellant's case, the Judge quite properly went on and considered whether there were very significant obstacles to reintegration into Algerian society and/or whether there were any other features of the case which would have rendered removal disproportionate. In undertaking that exercise, the Judge was plainly entitled to rely on his findings on the long residence issue and to have proceeded on the basis that the Appellant had not resided continuously in the United Kingdom for the period of time claimed. The Judge took relevant factors into account and there is nothing before us to indicate that irrelevant factors were considered. There is no tension between the findings on long residence and the Article 8 assessment.
24. Overall, we are satisfied that the conclusions under Appendix PL and Article 8 more widely were rationally open to the Judge.

### **Anonymity**

25. There is clearly no basis for making an anonymity direction in this case and we do not do so.

**Notice of Decision**

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

**The appeal to the Upper Tribunal is dismissed and the decision of the First-Tier Tribunal shall stand.**

**Directions to the Appellant**

- 1. The Principal of Joshi Advocates Ltd. shall attend the Upper Tribunal at Field House at 10am on Monday, 18 March 2024 to provide an explanation for the non-compliance of the error of law bundle in this case;**
- 2. Any application to vary Direction 1 must be made promptly, supported by cogent reasons and evidence, and marked for the urgent attention of Upper Tribunal Judge Norton-Taylor.**

**H Norton-Taylor**

**Judge of the Upper Tribunal**

**Immigration and Asylum Chamber**

**Dated: 5 March 2024**