



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

Appeal Numbers: PA005212016  
AA136872015  
AA136882015  
AA136892015  
AA136902015  
AA135482015  
AA136912015

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 8 May 2017**

**Decision Promulgated and Sent  
On 19 May 2017**

**Before  
DEPUTY JUDGE OF THE UPPER TRIBUNAL CHANA**

**Between**

**I E M  
N O Y  
A I M  
H A M  
A I A M  
Z I A M  
L I A M**

Appellant

**and**

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

Respondent

**Representation:**

For the appellant: Mr Dhanji of Counsel  
For the respondent: Ms Isherwood, Senior Presenting Officer

### **DECISION AND REASONS**

1. The appellants are nationals of Palestine, resident in Lebanon born on 3 April 1971, 22 August 1980, [ ] 2012, [ ] 2001, [ ] 2005, [ ] 2009 and [ ] 2010. There are father, mother and five children. As the appeal of the family members of the first appellant rests or falls with that of the main appellant, I shall consider his appeal and refer to him as “the appellant”.
2. The appellant appeals to the Upper Tribunal against the decision of First-tier Tribunal Judge Anstis dated 25 November 2016 refusing the appellant’s appeal against the decision of the respondent refusing him asylum and humanitarian protection in the United Kingdom.
3. Permission to appeal was initially refused by senior Judge Osborne of the First-tier Tribunal and subsequently granted by Upper Tribunal Judge Bruce on 20 February 2017 on the basis that that although the case has its weaknesses, it was arguable that the Judge’s reasoning in paragraph 111 of the decision in respect of paragraph 276 ADE (1) (vi) of the Immigration Rules as being arguably scant.
4. At the hearing before me, I heard submissions from both parties in respect of whether there was a material error of law in the First-tier Tribunal’s decision.
5. The first ground of appeal is that the Judge failed to give sufficient weight to the conclusions of Dr George in his report that the appellant would be at risk on return to Lebanon based on the information upon which he reached this conclusion. The evidence upon which this conclusion was based was that the appellant had worked for the Palestinian Fatah in the Ein-al-Hilweh camp and that it was these activities that brought him to the adverse attention of Jund Al Sham the Islamic jihad movement which puts him at risk on his return to Lebanon.
6. Therefore, had the appellant only relied on the general conditions for Palestinian refugees in Lebanon, the case of ***MM, FH stateless Palestinians - KK, IH, HG CG reaffirmed) Lebanon CG [2008) UKAIT 00014***, would have precluded him from protection. In ***MN, FH*** the court considered objective evidence concerning the situation for Palestinians living in Lebanon and concluded “Having considered these matters as a whole, as we have done in some detail above, we have concluded that to the extent that there is a discriminatory denial of third category rights in

Lebanon for the Palestinians, this does not amount to persecution under the Refugee Convention or breach of protected human rights under Article 3 of the ECHR.

7. The Judge however gave clear and cogent reasons at paragraph 86-105 for rejecting the appellant's claim that he worked for Palestinian Fatah in the Ein-al-Hilweh camp. The Judge stated at paragraph 90 that the only evidence of this work is the appellant's own evidence and even Dr George could not confirm this evidence. Dr George in his expert report states "none of my informants in Rashidiya camp had heard anything to the effect that the appellant had lived in Ain-al-Hilweh camp or worked distributing aid to Palestinian refugees from Syria." While a Judge is entitled to rely only on the appellant's evidence to prove his claim, he must be a credible witness. The Judge did not find the appellant credible for the reasons that he gave in his decision and which I outline below.
8. The Judge did not find credible the appellant's evidence that he was sent to the Ain-al-Hilweh refugee camp with \$40,000 to spend on refugees coming from Syria, when money would obviously have been in short supply for the Fatah. The Judge noted that Dr George himself raised concerns about the credibility of the appellant's claim that he was sent with a large amount of money to the refugee camp. The Judge further noted that the appellant's position was one of payroll manager and therefore it would hardly be expected that he would be the one to be sent on a special humanitarian mission to Ein-al-Hilweh camp. The Judge considered Dr George's report which stated that none of his informants had heard of the appellant's work. There is no perversity in not finding the appellant credible.
9. The Judge further noted in his decision that the appellant did not address this concern at the hearing about being entrusted with \$40,000 in cash, until he prompted the appellant. The Judge noted that the appellant then sought to downplay the amount of money while also emphasising his trustworthiness. The Judge was entitled to find that this evidence went to the appellant's credibility and to the credibility of his claim that he worked at the refugee camp.
10. The Judge considered the appellant's evidence of his encounter with Haitham Al Shaabi in the Ein-al-Hilweh camp and found that there was no evidence other than the appellant's evidence of this encounter, even if the expert found that such an individual is a prominent member of the Jund al Sham.
11. Furthermore, the Judge found that the appellant's attributes his difficulties with Haitham Al Shaabi to a conversation the appellant's sister had with Haitham Al Shaabi's sister. The Judge correctly found it to be improbable that the appellant's sister would casually mention the

appellant's work for the PLO/Fatah in the Ein-al-Hilweh camp to the known sister of a notorious extremist and leader of an organisation opposed to the PLO. This is a logical conclusion that the Judge came to on the evidence.

12. The Judge in his decision makes reference to Dr Georges expert report throughout his decision. Therefore, the complaint that the Judge did not take into account the expert report has no basis whatsoever. The expert found the appellant's account "plausible" but it is the duty of the Tribunal to assess the credibility of the appellant based on all the evidence, which he did in a very reasonable and fair manner.
13. The Judge did not accept the appellant's evidence that he came to the adverse attention of the Lebanese army. The appellant's evidence was that he was detention for a short while, on his return to Al Rashidiya camp by the Lebanese army. The grounds of appeal state that the Judge did not accept Dr Georges conclusion on the basis of the information he received from his source that the appellant was wanted by the Lebanese authorities.
14. The Judge however gave cogent reasons for not accepting this evidence. The first reason given by the Judge was that the appellant failed to mention this pivotal evidence of his detention by the Lebanese authorities earlier but only mentioned it for the first time, during cross-examination at the hearing. The Judge was entitled to draw adverse credibility findings against the appellant that this pivotal evidence was given only during cross examination and even then, it had to be elicited from him. The Judge stated that given that the core of the appellant's claim is that he is at risk from the Lebanese authorities, his failure to mention this detention was not credible.
15. The Judge did not accept the explanation advanced by the appellant's counsel for his failure to give this evidence earlier which was that large pieces of the appellant's account which were not supported by other evidence were omitted. The Judge rightly pointed out that this should not have prevented the appellant or his wife from mentioning this detention for the Lebanese army, earlier given that the appellant and his wife had given comprehensive accounts in their asylum interview and witness statements of their claim including details which are not immediately relevant to the claim, such as the time they spent in the UAE. The Judge further stated that there is an incident described by the appellant's wife and her witness statement which is consistent with the period of detention described by the appellant and therefore it makes it even stranger that this evidence was not given earlier until the hearing.
16. The Judge was entitled to find that the appellant's evidence that he was detained by the Lebanese authorities was an afterthought and an attempt to bolster his asylum claim which went to the appellant's credibility. The Judge's reasoning in respect of this evidence is faultless.

17. The Judge then considered the appellant's brothers claimed detention and the threats and demands to surrender himself to the Lebanese authorities which and took into account the documents from the Popular Committee. The Judge gave weight to Dr George expert opinion in about these documents and said, although authentic they should be treated with caution particularly so given that in this case the appellant was known to have family members who worked for the PLO/Fatah. The Judge was therefore entitled not rely on them.
18. The Judge took into account the expert's view that the Islamic jihad was a ruthless organisation who would not issue threats needlessly but it could be expected that they would carry them through. The Judge found that despite this evidence, it was not credible that the appellant remained safe hiding in the Rasididya camp for five months. The Judge father relied on the inconsistency in the appellant's evidence at the hearing when he was asked about this. The Judge stated that the appellant gave the impression that "he had been able to stay safe under armed guard by members of his family, but this was the first time that this had been mentioned and found it not credible as it could not be reconciled with the evidence in his statement that "only his father-in-law and wife, (who by then would have left the country), knew where he was." The Judge was entitled to find that this, inconsistent evidence went to the appellant's credibility and to the credibility of his claim.
19. The Judge found that given the appellant's account of events there were also alternative versions of events put forward by Dr George's anonymous source. The Judge stated that the anonymous source gave an entirely different account of matters agreeing only that the appellant is at risk from the Lebanese authorities but for a totally different matter. The Judge stated that the appellant was fully aware of the contents of the expert's report before the hearing and had every opportunity to give a correct account of events in accordance with what the expert's anonymous source as documented in the expert report. He went on to state that it is based on an account that the appellant himself has refused to adopt or endorse. These are perfectly viable findings on the evidence.
20. The Judge considered the submission by the appellant's counsel to be a bold one that even if the Judge does not accept the appellant's account of events, he ought still to consider risk on return based on the account given by the expert's anonymous source. The Judge made it clear that the account given by the anonymous source is not endorsed by the appellant's account. I find there is no perversity in the Judges reasoning in this regard.
21. The Judge concluded that his task is not simply to assess whether the appellant is telling the truth, but is overall to assess whether the appellant is

at risk on return to Lebanon. The Judge stated that there may be cases in which it is proper to find an appellant at risk on an entirely different basis to the one put forward by that appellant, but said that this is not such a case. He further emphasised that he cannot rely on an anonymous source, notwithstanding the expert's assurances that it was a credible source, particularly where the appellant himself disagrees with the evidence. This is a reliable finding of the evidence.

22. The Judge did not accept the appellant's evidence that he had worked at the Ein-al-Hilweh camp or that he was detained by the Lebanese authorities or that has come to the adverse attention of anyone or that he is at risk from anyone.
23. The grounds of appeal state that since the changes to the Immigration Rules came into force on 9 July 2012, including the incorporation into the rules of paragraph 276 ADE, there is a need for the Tribunal to consider the question of whether there were very significant obstacles to the integration of the appellants as stateless Palestinians in Lebanon, and that this question cannot be answered simply with reference to the 2008 country guidance case of **MM, FH**, in view of the test now incorporated by virtue of paragraph 276 ADE and the updated country background evidence of the difficulties stateless Palestinians face in Lebanon as detailed in Dr George's report.
24. The Judge stood guided by the case of **MN, FH** when assessing whether the appellant will face very significant obstacles to his integration in Lebanon and qualify for leave to remain under paragraph 276 ADE (1) (vi). In **MN, FH** the court found that the situation for Palestinians living in Lebanon does not amount to persecution under the Refugee Convention or breach of protected human rights under Article 3 of the ECHR.
25. The Judge was invited to depart from the country guidance case and instead rely on Dr George's expert report. The Judge considered the case of **DSG (Afghan sikhs: departure from CG Afghanistan) [2013] UKUT 00148 (IAC)** which said that very strong grounds and cogent reasons are needed to depart from a country guidance case. The Judge did not find Dr George's report demonstrated such very strong grounds, supported by cogent evidence. The Judge was entitled not to depart from the findings in **MM, FH**.
26. The Judge was entitled to find that the appellant did not have a history of past persecution and was therefore an ordinary Palestinian living in the camp in Lebanon amongst lots of others and where he has lived in the past. He took into account that the appellant is an engineer who left the camp of his own free will, worked in Dubai for seven years after which he returned to Lebanon and found that there was no reason for why he could not continue to do so again. The Judge considered Dr George's report, including evidence

about the difficulties stateless Palestinians, would face in Lebanon but he was entitled to follow the country guidance case of **MM and FH** about the conditions and treatment in the camps, while poor, were not sufficient to amount to significant obstacles for the appellant and his family to return.

27. I find the Judge's findings are based on all the evidence in the appeal including the expert report of Dr George and the decision is careful, well-reasoned, adequate and without any material error of law.

28. In **R (Iran) v Secretary of State for the Home Department [2005] EWCA Civ 982** Brooke LJ commented on that analysis as follows:

15. It will be noticed that the Master of the Rolls used the words "vital" and "critical" as synonyms of the word "material" which we have used above. The whole of his judgment warrants attention, because it reveals the anxiety of an appellate court not to overturn a judgment at first instance unless it really cannot understand the original Judge's thought processes when he/she was making material findings.

29. I find that I have no difficulty in understanding the reasoning in the Judge's decision for why he reached his conclusions. I find that the Judge's conclusions are free of error; I therefore reject the appellant's grounds of appeal in their entirety and dismiss the appellant's appeal and it follows that the appeals of the other appellants are also dismissed.

## **DECISION**

I dismiss the appeal of all the appellants

2017

Dated this 15<sup>th</sup> day of May

Signed by,  
A Deputy Judge of the Upper Tribunal

Mrs S Chana

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