Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Numbers: PA/00521/2016
AA/13548/2015, AA/13688/2015
AA/13689/2015, AA/13690/2015
AA/13691/2015, AA/13687/2015

THE IMMIGRATION ACTS

Heard at Field House	**Decision & Reasons Promulgated**
On 14 January 2020	**On 26 February 2020**

Before

UPPER TRIBUNAL JUDGE PITT

Between

IM
NY
HM
AM
ZM
LM
AM
(ANONYMITY DIRECTION MADE)

Appellants

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:
For the Appellant: Mr E Fripp, Counsel, instructed by Duncan Lewis & Co Solicitors
For the Respondent: Ms J Everett, Senior Home Office Presenting Officer

DECISION AND REASONS

Direction Regarding Anonymity – Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008

1. 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 their 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.

Background

2. This is an appeal against the decision issued on 17 September 2019 of First-tier Tribunal Judge Mill which refused the asylum and human rights appeals of the appellants.

3. The seven appellants are a family of Stateless Palestinians who were resident in Lebanon prior to their entry to the United Kingdom. The family comprises the father, IM, and mother, NY, and their five children, the oldest of whom is now an adult.

4. The second appellant and the children arrived in the UK on 6 February 2015 and applied for asylum on arrival.

5. IM arrived in the UK on 24 August 2015 and also claimed asylum on arrival.

6. The asylum claims of the second appellant and the children were refused by the respondent in a decision dated 30 November 2015. The first appellant's claim was refused in a decision dated 5 January 2016.

7. All of the appellants appealed to the First-tier Tribunal. Their appeals were linked as they all relied upon the claim put forward by the appellant. For the same reason, in this decision I refer only to the appeal of IM (the appellant) in this decision.

8. The appeal has a somewhat complicated procedural history. It was dismissed by First-tier Tribunal Judge Anstis in a decision promulgated on 25 November 2016. Permission to appeal was granted by Upper Tribunal Judge Bruce in a decision dated 20 February 2017. The error of law decision came before Deputy Upper Tribunal Judge Chana who, in a decision issued on 19 May 2017, found no error of law in the decision of First-tier Tribunal Judge Anstis.

9. The appellant applied for permission to appeal to the Court of Appeal. On 26 July 2018, permission was granted by consent and the appeal remitted to the Upper Tribunal in order for a new decision on whether the decision of First-tier Tribunal Anstis disclosed an error on a point of law.

10. The appeal then came before Upper Tribunal Judge Blum and in a decision issued on 22 November 2018 he found a material error of law in the decision of First-tier Tribunal Judge Anstis and set it aside. The appeals were remitted to the First-tier Tribunal for a *de novo* hearing with no findings preserved.

11. The appeal then came before First-tier Tribunal Judge Mill on 9 September 2019. In the decision dated 17 September 2019 which is under challenger here, Judge Mill refused the appellant's asylum and human rights appeal.

12. The appellant applied for permission to appeal to the Upper Tribunal. This was refused by Upper Tribunal Judge Martin in a decision dated 30 October 2019 but, on renewal, granted by Upper Tribunal Judge Coker in a decision dated 3 December 2019. Thus the appeal came for hearing before me on 14 January 2020.

13. The core of the appellant's claim is that he lived in the Al Rashidiya refugee camp for the majority of his life. In 2014 he began working for the Palestinian Liberation Organisation/Fatah (Fatah). He was given funds of $400,000 to spend on refugees coming from Syria. In order to dispense this money he went to live in the Ein Al-Hilweh refugee camp. While he was living in Ein Al-Hilweh camp, the appellant visited a camp in an area of Lebanon called Arsal, close to the Syrian border. He did so of his own accord and without informing Fatah.

14. The appellant maintains that whilst working in Ein Al-Hilweh camp, at the beginning of December 2014 he was approached by an official of Jund Al-Sham, a militant Islamic group, and asked by this individual to register his family and others as Palestinian refugees from Syria and to give them funds of approximately $100,000. He also requested that the appellant work as a spy against Fatah. The appellant refused to co-operate. The official from Jund Al-Sham threatened to kill him and kidnap his wife and children. Fearing reprisals, the appellant returned immediately to Al Rashidiya camp with his family.

15. The appellant maintains that after he returned to Al Rashidiya camp, on 9 December 2014, the Lebanese Army stopped one of his brothers at the entrance to the camp, believing that he was the appellant. The appellant's brother was questioned about the nature of the appellant's work, whether he went to Arsal and whether he supported the Syrian people financially or provided them with weapons. The appellant maintained that his brother was questioned by various Lebanese intelligence agencies and by Hezbollah who believed that the appellant had been providing weapons to the Syrian opposition. The appellant's brother was released after 24 hours.

16. The appellant maintains that when he next re-entered Al Rashidiya camp he was stopped and questioned by the Lebanese Army for about six hours. He states that he was released with the assistance of senior members of

the Popular Committee of Fatah. The appellant maintains that he found out that the reason that he was detained was because of the suspicions that he had been assisting the Syrian opposition.

17. The appellant maintains that a few days later he was informed that the Lebanese authorities were looking for him and had requested that he hand himself over for the purposes of an investigation into a security matter. Believing that Hezbollah were behind this and that he would be seriously mistreated, he went to the leader of Fatah. He informed the leader about his visit to Arsal and was advised to deliver himself to the Lebanese authorities for investigation. At the same time the appellant also received calls from the Islamic Jihad Movement ordering him to deliver himself to the Lebanese authorities and threatening that his wife and children would be kidnapped if he did not do so.

18. The appellant maintains that he feared for his safety and the safety of his family. His wife's father paid $40,000 to an agent to facilitate the journey of the appellant's wife and children to the UK, having obtained visas for the USA. The appellant remained in hiding in Al Rashidiya camp while his father-in-law made arrangements for him to escape. The appellant escaped from the camp along the seacoast, went to Beirut, then to Tripoli where he met an agent who arranged for his journey to the UK via Turkey and Italy.

19. The appellant gave evidence at the hearing before First-tier Tribunal Judge Mill. He also relied on three bundles of documents. Those materials included a country expert report dated 8 November 2016 of Dr Alan George. It is of note that this report was before First-tier Tribunal Judge Anstis as long ago as 18 November 2016 when the appeal was first heard. The issues arising from the report of Dr George have been live since then. In summary, Dr George's opinion was that the appellant's claim was "very generally plausible" but subject to "very significant *caveats* and exceptions"; see paragraph 107 on page 281 of the appellant's first bundle. Dr George also stated that aspects of the appellant's claim troubled him "considerably", those concerns being set out in paragraphs 117 to 122 on pages 283 to 285 of the appellant first bundle. Dr George also found, after making enquiries of personal contacts in Lebanon, that they provided a very different profile of the appellant as someone known to have fallen out with a volunteer in Al-Rashidiya camp who had given false information against him to the Lebanese intelligence services. This had led to the appellant's arrest by Lebanese Army Intelligence, his release following intervention by the Palestinian Embassy; see paragraphs 123 to 129 on pages 285 to 286 of the appellant's first bundle. Dr George identifies in paragraph 128 that the appellant's evidence "conflicts very significantly with the information I have received from my contacts in the Rashidiya camp" but considered that the account from Lebanon was still capable of showing that the appellant would be at risk on return.

20. First-tier Tribunal Judge Mill made detailed findings on the credibility appellant's claim. For the purposes of this error of law decision it is necessary to set those findings out somewhat extensively as follows (verbatim):

> "34. Before the First Appellant gave evidence, I provided him with a detailed introduction and guide as to how to give his evidence. I explained that he should
> listen to the whole question before answering it. I explained that he should not answer any questions he did not understand. I explained that he should focus his answers on the questions asked and not give evidence about things that he was not asked about. The Appellant quickly fell foul of all these simple rules. He was persistently evasive in answering quite simple questions put to him in cross-examination. I required to intervene on more than one occasion in order to seek to assist the First Appellant in the smooth running of the hearing. I did not find the Appellant a credible or reliable witness.
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> 35. I required to ask questions of the First Appellant myself for clarification purposes. This was with specific reference to the family members who he had referred to as remaining present in Lebanon. I did so bearing in mind that I was aware that the Appellants representative was to rely upon Paragraph 276ADE(1)(vi) of the Immigration Rules. The First Appellant was entirely contradictory in his responses about the circumstances of his family members and the extent to which they had influence and were instrumental in the running in particular of Al Rashidiya camp. He gave clear evidence to the effect that a number of family members were significantly involved at a senior level. He then changed his position and stated that it was only his sister who has involved with the PLO to the degree of assisting disabled refugees. He also made reference to one uncle of his wife at that time. I was surprised by such significant inconsistency and was obliged to put it candidly to the First Appellant that he had been wholly inconsistent given that if I had raised such issue in my determination without having put this to the First Appellant then no doubt this could attract criticism. The Appellants representative at this juncture objected to my line of questioning suggesting that I had entered into the arena of cross-examination. This was, of course, clearly not the case and I indicated to the Appellants representative that I was seeking to establish facts which I believed were pertinent to the determination of the Article 8 matter. The Appellants representative persisted in his objections and in those circumstances I indicated that I would question the First Appellant no further and that he should be allowed a further opportunity to re-examine. Very surprisingly he immediately, in the absence of taking any further instructions, indicated that he was asking no further questions, that the second witness anticipated to be called, namely the Third Appellant, would no longer be called and that he was closing his case.
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> 36. The First Appellant was not an impressive witness. He was vague and evasive. He was contradictory in his evidence regarding the

circumstances of his family members who he clearly keeps in contact within Lebanon.

37. It is a matter for the Appellant to establish that documents which he has provided can be relied upon. They cannot be looked at in isolation and require to be looked at together with all other evidence in the round – Tanveer Ahmed IAT [2002] UKIAT 00439.

38. The Appellant has lodged copies of an ID card said to have been issued by the Palestinian Organization/Palestinian National Liberation Army. The copy of the front and reverse of the card is produced at pages 218 and 220 of the Appellants primary consolidated bundle. The relevant translated versions are correspondingly found at pages 219 and 221 of the bundle. The principal ID card was produced at the hearing for my scrutiny.

39. The Appellant also relies upon two letters he says were issued to him by the popular committee of the PLO which are found at pages 228 and 230 of the Appellants consolidated bundle with the translated versions appearing at pages 229 and 231 of the bundle. These both bear a date of 20 June 2015. The First Appellant states they were not delivered to him personally as he remained in hiding at that point.

40. The Appellant relies upon an expert report dated 8 November 2016 prepared by Dr Alan George who is 70 years of age and has worked for 40 years as a freelance writer, journalist, consultant, academic and expert witness, specialising in Middle Eastern political and economic affairs. Having regard to the nature and extent of his relevant experience I am satisfied that he is an appropriate witness to provide an expert report and opinion evidence. I am satisfied that Dr George has complied with his responsibilities and duties to the Tribunal.

41. I have regard to the expert opinion of Dr George in assessing the weight to be attached to the ID card and letters from the popular committee which the First Appellant relies upon.

42. At paragraph 117 of Dr George's Report he states that he could discern nothing about the ID card itself which would cause him to doubt its authenticity. However Dr George refers to the fact that the ID card describes the First Appellant as a payroll manager for the Palestinian National Liberation Army which is a regular armed force linked with the PLO. This is indeed what the certified translation which appears at page 219 of the Appellants bundle records. The Appellants representative suggested to me in submissions that the signature on the document was of a payroll manager and the ID card does not purport that the First Appellant held that position. The First Appellant denied in his oral evidence being a payroll manager.

43. Dr George is clearly acquainted with the type of ID card which the First Appellant has produced and relies upon. His interpretation of the card is at one with the translated version at page 219 of the Appellants

bundle which suggests that the First Appellant held the role of payroll manager. Despite the First Appellant's position that he was not employed as a payroll manager, he has taken no steps to address this in any of his written witness statements. This discrepancy, and the alleged erroneous interpretation by Dr George, is not something which the Appellant, despite being represented, has sought to address by way of the instruction of a supplementary or up to date Report from Dr George. Ample opportunity has been available. I rely on Dr George's assessment and this undermines the Appellant's credibility.

44. I find the ID card presented by the First Appellant in the circumstances is authentic and confirms his position with the Palestinian National Liberation Army as one of payroll manager. This undermines entirely the First Appellant's claims to have worked for the PLOs Fatah Organization and having been provided with a budget of $400,000 to assist Palestinian refugees from Lebanon. Dr George states in paragraph 117 of his Report, "There are nevertheless aspects of [IM's] testimony that trouble me considerably." He calls into question that given the First Appellant is certified as having been a payroll manager which is a regular Armed Force linked with the PLO, it is unclear as to why such a manager would be provided with $400,000 to assist Palestinian refugees from Syria. Dr George goes on to state "… I am also very surprised that an organization such as the PLO, which is under permanent financial pressure, would be expending $400,000 on aid for refugees from Syria." This evidence from Dr George seriously undermines the First Appellant's credibility.

45. At paragraph 118 of his Report, Dr George observes that set against the First Appellant's claims to have received threats from the Islamic Jihad movement, that whilst the First Appellant may have kept a low profile in the camp he was certainly known to be there and given that the Islamic Jihad group is an armed extremist group who would not hesitate to take some form of physical action against antagonists, Dr George states "I am therefore very surprised that IM was able to reside without problems from Islamic Jihads in Rashidiya for some 5 months, from December 2014 until May 2015". This evidence from Dr George undermines the First Appellant's credibility. This would also seriously undermine the Appellant's claims to have received direct threats from Haitham which led to no action on his part when given the opportunity.

46. Dr George considered the two letters issued by the popular committee of the Al Rashidiya refugee camp found in the Appellants commencing at page 228. Dr George has special knowledge of the popular committee and in February 2016 he visited Rashidiya and met with the popular committee's head, [AK]. Dr George states that in 2016 he had been investigating an asylum claim in which two handwritten letters issued by the popular committee in November and December 2015 and signed by [AK] were remarkably similar in content (down to words and phrases used) to the letter submitted by the now First Appellant. Dr George states that during his February 2016 visit [AK] confirmed

that he had written the two letters relating to that former asylum case and that it was his signature that appeared on the base of each.

47. Concerningly, at paragraph 121 of Dr George's Report he states that the handwriting and signatures on those two earlier letters (which were authentic) differ from those on the letters submitted by the now First Appellant. Such were Dr George's concern about the differing presentation of the letter submitted by the now First Appellant, that he contacted the First Appellant's legal representatives and thereafter contacted the First Appellant himself and made enquiry about how he had obtained the letters. The First Appellant had stated that he had obtained them via his wife's family.

48. Dr George has ongoing ties and contacts at Al Rashidiya. Accordingly during October 2016, he contacted well placed and trusted sources inside the Al Rashidiya refugee camp. Dr George states at paragraph 122 of his Report that he has complete faith in those individuals whom he contacted. Dr George is candid in stating that he appreciates that the information gleaned in such circumstances cannot be assumed to be beyond reproach. The nature of the enquiries are not open. It is not realistic to expect local researchers to explain in detail to interviewees why they are making enquiries. Dr George states that in paragraph 122 that his sources in turn spoke with their sources who included personal friends and acquaintances of the First Appellant. He states "It is not possible to know with complete confidence the reliability of the information". Dr George does however state that Al Rashidiya is a close knit community where people generally have a good knowledge of each other's lives.

49. Dr George states that the information which was returned from his sources in Al Rashidiya confirmed that the First Appellant had been working in the Arabian Gulf as he states but returned to Al Rashidiya during the Syrian crisis – in early 2011. The date of the First Appellant's return conflicts with the First Appellant's position. Dr George's sources confirmed that the First Appellant worked as a volunteer with a youth organisation named [X]. The sources claimed that the manager of the organisation is named [AM] and that the First Appellant was said to have fallen out with the manager. The sources believed that the manager in revenge had told the Lebanese Army Intelligence that the First Appellant belonged to Daesh which had led to the First Appellant's arrest for one week. The information was also that the Palestinian Embassy in Lebanon had intervened along with the Al Rashidiya camp's popular committee to resolve the matter and that the First Appellant was released based on the signed pledge from the popular committee, including that the First Appellant was prohibited to leave Al Rashidiya refugee camp. A subsequent attempt by the Lebanese intelligence requested the popular committee to surrender the First Appellant to them failed due to the fact that the First Appellant had by then fled.

50. The two letters from the popular committee of the PLO which he relies upon which are dated 20 June 2015 are in conflicting terms and at odds with the terms of the information obtained by Dr George. This undermines the credibility of the letters which the Appellant has produced further beyond Dr George highlighting that the handwriting and signature are different from letters which he has specifically confirmed the authenticity of previously.

51. Dr George confirms at paragraph 126 of his Report that the two letters submitted by the First Appellant were considered authentic by a member of the Al Rashidiya popular committee. In particular the notepaper was considered authentic. Dr George states however that he was cautioned that family relationships are extensive and close in the Palestinian camps and it is not inconceivable that persons on or close to the popular committee might be connected to the First Appellant's family and might feel honour bound to tell untruths or half-truths on his behalf. The Appellant states that his sister and brother in law were involved in the popular committee. He states his wife's uncle had influence in Al Rashidiya camp. Taking all factors into account, I do not find the letters by the popular committee of the PLO to be authentic. I find them to be fabricated and I attach no weight to them. The fact that the First Appellant has gone out of his way to obtain such false documentation undermines his general credibility.

52. Dr George highlights at paragraph 127 of his Report that none of his informants in Al Rashidiya refugee camp had heard anything to the effect that the First Appellant had lived in Ein al-Hilweh camp or worked distributing aid to Palestinian refugees from Syria. Given the close knit community in Al Rashidiya and standing that the First Appellant states that his sister and brother in law had connections to the popular committee and that his wife's uncle had influence in the camp, this seems very odd in the event that the First Appellant's claims are true.

53. The First Appellant's claims to have been detained for 6 hours upon re-entry to Al Rashidiya refugee camp from Ein al-Hilweh camp have not been consistent. In the First Appellant's initial evidence and in particular in his originating witness statement dated 7 December 2015 he made no mention at all of having been stopped or detained or arrested. This feature of the First Appellant's claims were contained for the first time in his second substantial written witness statement which is dated 25 October 2016. No good reason has been advanced as to why such an important part of the First Appellant's core claim had not been raised by him before. Moreover the First Appellant's claims in relation to his detention at that time were also inconsistent. In his oral evidence the Appellant was clear that he had been asked openly and confronted and accused openly and candidly about the assertions that he had been assisting the Syrian opposition by, amongst other things, providing them with weapons. By comparison the First Appellant's written witness statement dated 25 October 2016 at paragraph 16 states that he was given no information at all as to why he was

stopped at the time itself. This is a major and material inconsistency at the heart of the First Appellant's core claim. The First Appellant states in the statement that he was assisted by senior other confidants and members of the popular committee and released and was subsequently told the reasons why. I find this entirely incredible given the serious nature of the allegations which the First Appellant then faced. I also note that the First Appellant's claims not to have been told about the reasons why he had been stopped in his original witness statement differ from the apparent treatment of the Lebanese Authorities of the First Appellant's brother who he states had also been detained at around the same time after his brother had been misidentified for him. The First Appellant's position is that the First Appellant's brother was interrogated openly about the same allegations and this supports the conclusion that it is most likely that the Authorities would have made further direct enquiry with the First Appellant at the time if his assertions regarding the allegations against him are true. I find that the First Appellant's claims to have been detained an afterthought manufactured by him to bolster his asylum claim. His claims to have been detained are inconsistent and incredible.

54. At paragraph 129, Dr George points out that despite his information from Al Rashidiya conflicting considerably with the First Appellant's, the information he obtained does agree with one key point, namely that the First Appellant is wanted by the Lebanese Authorities. In the opinion of Dr George a person detained by those Authorities as a suspected Islamist extremist would be in serious danger of maltreatment of torture. He refers back to earlier generic parts of his Report as justification for this conclusion. Later within the conclusion section, Dr George at paragraph 140 states that his firm view based both upon the First Appellant's testimony and on his research is that the First Appellant would encounter real risks if returned to Lebanon. These real risks appear to specifically relate to the Lebanese Authorities adverse interest in the First Appellant.

55. The First Appellant was specifically asked under cross-examination whether or not he now associated with the evidence obtained by Dr George regarding his involvement with the organisation named [X] and the conflict which arose with the manager, [AM]. The First Appellant was unequivocally clear in dissociating himself from this background.

56. Dr George fully acknowledges at paragraph 122 that the information which he obtained is not beyond criticism due to the fact that the sources relied upon are anonymous and, for example, it is not at all possible to identify whether or not the information is first or second hand or even less direct than this.

57. Whilst Dr George confirms clearly that his direct contacts are well placed and trusted, and he has complete faith in them, it is of course impossible for Dr George to certify the same about other unknown

anonymous sources. Dr George also highlights that sources may well tell untruths or half truths.

58. Given the fact that the First Appellant wholeheartedly and vehemently dissociates himself from the information obtained from Dr George's contacts, taken together with the lack of information regarding the original source of the information, then I attach no weight at all to the background information obtained by Dr George from Rashidiya camp.

59. The fact that the First Appellant ultimately has claimed to have been detained and wanted by the Lebanese Authorities (which he did not do originally), and Dr George's sources indicate likewise, this one fact does not in fact bolster or add weight to the First Appellant's claims at all.

60. There are serious issues regarding the First Appellant's credibility. I do not find the First Appellant's stated claim to be plausible. Despite Dr George at paragraph 138 of his Report stating that the First Appellant's testimony is broadly plausible, I do not find that this necessarily accords with the rest of Dr George's Report in which he casts serious doubt over the First Appellant's claims and indeed stated that he was very surprised (his emphasis) that the First Appellant regardless of this employment capacity with the PLO would have had access to $400,000 for refugees in Syria. I find Dr George's conclusions flawed when I read the report as a whole.

61. I reject the First Appellant's evidence as inherently unreliable and incredible. I have rejected the Appellant's account as I find he is not a witness of truth. I also reject the alternative proposition that the Appellant is at risk due to the reasons stated to Dr George in the course of his enquiries for the reasons as set out. I dismiss his asylum claim. The Appellants representative indicated that the Second to Seventh Appellants were not truly dependent upon the First Appellant's claim but were all asylum claimants in their own right given that the circumstances relied upon for success for the First Appellant would all directly impact upon them and they were all at direct risk. Given my dismissal of the First Appellant's claim for the reasons set out, I also dismiss the Second to Seventh Appellants claims for asylum.

62. I find that the Appellant is of no interest to the Lebanese Authorities. I also find that the Appellant is of no interest to Hezbollah or the Islamic Jihad movement and groups operating in Al Rashidiya or elsewhere in Lebanon."

21. The appellant appeals to the Upper Tribunal on four grounds. The first was described as a combination of credibility and fairness in Mr Fripp's most helpful skeleton argument dated 14 January 2020. This first ground maintained that at the First-tier Tribunal hearing, as indicated in paragraph 35 of the decision, the judge put questions to the appellant and that Mr Fripp, also representing on that occasion, objected to that questioning. The grounds maintain that the points being put to the

appellant included a mistake of fact by the judge on the appellant giving evidence that he had several family members who were involved in the running of the Al Rashidiya camp at a senior level. The grounds maintained that the appellant had not changed his evidence on this issue and that putting an incorrect proposition to the appellant as to what his evidence had been was unfair. The grounds also maintain that in dealing with this issue at the hearing the judge intervened unduly and unfairly, descending into cross-examination, putting leading questions and doing so in a hostile manner suggesting bias.

22. I did not find this ground had merit, firstly because the judge was entitled to find that the appellant gave contradictory evidence about his family members and entitled to put that inconsistency to him. The appellant maintains that he did not provide discrepant evidence concerning whether he had relatives who were senior in the Fatah management structure of Al Rashidiya camp. I was referred to the appellant's evidence in paragraph 15 of his witness statement dated 7 December 2015 which is at page 86 of the appellant's first bundle. He stated that his sister, S, worked for Fatah in the special needs department. In the same paragraph he also stated that his wife's uncle worked for Fatah and had "a senior role in the organisation." Mr Fripp submitted that this had also been the appellant's evidence before the First-tier Tribunal and that he had therefore remained consistent on his relatives' involvement with Fatah.

23. In support of the grounds of appeal, Mr Fripp provided a statement of truth prepared by him dated 1 October 2019 attesting to his understanding of what happened at the hearing and exhibiting his handwritten note of what was said. On page 3 of that handwritten note, Mr Fripp identified that in the seventh question, headed by the letter "J" to identify it was the judge asking the question, the appellant was asked whether any of his relatives were involved with the Popular Committee. Mr Fripp clarified at the hearing before me that the "Popular Committee" was the Fatah management committee for the Al Rashidiya camp. The appellant's response is recorded as:

> "N but BiL was and my S = PLO, [undecipherable] disabled."

There was agreement that this response should be understood as stating "No, but my brother-in-law was and my sister worked for the PLO concerning the disabled". I pause here to point out that this reading of this response is consistent with what Judge Mill says in paragraphs 51 and 52 of his decision on the appellant's evidence concerning his sister, brother-in-law and his wife's uncle.

24. Mr Fripp also referred to page 5 of his handwritten record of proceedings which shows that from question 7 onwards the judge put questions to the appellant concerning his ID document. In the twelfth question on page 5, the appellant clarified that there were five girls in his family, three of them in the Al Rashidiya camp, the others being in Bas camp and his other

siblings in other camps. The judge then asked in the first question on page 6 of 8 of Mr Fripp's handwritten note "Were they all involved in the running of the camp?" The appellant's response read:

> "Not my B or BiL. Only my S = captain in rank"

There was agreement that this response should be understood as "Not my brother or brother-in-law. Only my sister who was a captain in rank."

25. The next question from the judge on page 6 of Mr Fripp's handwritten note reads:

> "J U confusing me further thought understood family high ranking then you said no – evidence completely contradictory.
>
> J Which relatives"

The appellant responds:

> "I sd members of family rels like pat uncle to W is senior official."

There was agreement that this exchange should be understood as follows:

> "Judge: You are confusing me further. I thought I understood that members of your family were high ranking and then you said that they were not. Your evidence is completely contradictory.
>
> Which relatives are high ranking?
>
> Appellant: I said members of my family/relatives like my wife's paternal uncle was a senior official."

26. After a further question which appears to be about the rank of the uncle, the record of proceedings shows that Mr Fripp intervened and submitted that the judge risked descending into the arena and putting an inaccurate version of the appellant's account to him. The handwritten note in the middle of page 6 shows the judge responding that he was "trying to establish facts" and the note then records the judge saying "then won't ask anymore". The note then indicates that the appellant's case was closed at that point.

27. I was able to identify the relevant parts of the handwritten note of the First-tier Tribunal Judge and confirmed to the parties that it was consistent with Mr Fripp's note.

28. My reading of the evidence set out above is that the First-tier Tribunal was entitled to find the appellant's evidence on having relatives who were senior officials or influential in Al Rashidiya camp was contradictory and entitled to seek clarification by asking questions. It is undisputed that the

appellant's evidence was that his wife's uncle was a senior official in Fatah. It was open to the judge to find that the appellant's evidence set out in paragraphs 23 and 24 above was that his sister was involved in running of Al Rashidiya camp, with the rank of captain. It was also open to Judge Mill to find that the appellant's oral evidence set out above in paragraph 23 was that his brother-in-law was involved in running Al Rashidiya camp and that the evidence he gave, as recorded in paragraphs 24 and 25 above, was not consistent regarding the brother-in-law. The judge's proposition to the appellant that he had given inconsistent evidence on his relatives' involvement with Fatah was not mistaken, therefore, and was not unfair.

29. Further, Mr Fripp's note of the judge's questions and the discussion between him and the judge as to the appropriacy of the judge's questions is materially consistent with First-tier Tribunal Judge Mill's view of what occurred, as set out in paragraph 35 of the First-tier Tribunal decision. Mr Fripp intervened, indicating that the judge was at risk of descending into the arena and cross-examining the appellant. The judge did not accept that was so and indicated that he was merely trying to establish facts that were material to the decision. As above, that was a legitimate position given the inconsistent evidence that had been given by the appellant on his relatives. After Mr Fripp's intervention the judge indicated that he would not ask any more questions. Mr Fripp confirmed that he was invited by the judge to re-examine the appellant but did not do so. The judge acted fairly, in my view, in ceasing to ask further questions when Counsel for the appellant objected and specifically offering the opportunity to re-examine. It is not disputed now that the appellant's oral evidence before the First-tier Tribunal, set out in paragraphs 23 to 25 above, included a reference to a brother-in-law and included statements that the appellant's sister was a captain in Fatah and "involved in the running of the camp". The appellant had the opportunity to clarify this evidence in re-examination but did not do so.

30. My conclusion is that the materials before me show the judge putting a legitimate concern about inconsistencies in evidence. The inconsistencies concerning his relatives is discussed above. There was a stark inconsistency regarding the appellant's identity card which the expert had found showed he was a payroll manager when the appellant's claim was that he had an entirely different role in Fatah. These were material matters which, as Judge Mill points out in paragraph 35 of his decision, if left unaddressed could have left him open to a different allegation of unfairness where the appellant should have been afforded the opportunity to address them. If there was a real concern that the judge's questions went beyond robust clarification and became hostile such as to indicate bias, an application could have been made for him to recuse himself and the hearing adjourned. Nothing suggests that such an application was even contemplated. There is no statement from the appellant (or anyone else present at the First-tier Tribunal hearing) stating that the judge acted

in a hostile manner. As set out in paragraph 26 above, Mr Fripp's indication to the judge was that he was "at risk" of descending into the arena not, as argued now, that he had already done so. It follows, given that the judge did not ask any further questions after Mr Fripp's intervention, that he avoided falling into error, even if he had come close to doing so. The judge's conduct in seeking clarification from the appellant where, legitimately, he saw potentially material inconsistencies in the evidence, refraining from asking further questions when Counsel intervened and offering re-examination suggests that he had a proper grasp of what was fair and proper procedure and in that context, taking into account the matters set out above, the allegations of hostility or bias are not made out.

31. A new submission relating to Ground 1 was raised at the hearing before me. It was suggested that the reference to a "brother-in-law" on page 3 of 8 of the record of evidence must have been an interpretation error as the appellant did not have a brother-in-law in Al Rashidiya camp. This concern could have been raised at the First-tier Tribunal. Those present would have heard the interpreter refer to a brother-in-law and the appellant's representative could be expected to know that the appellant had not mentioned such a person before and deal with the point in re-examination. If the point was missed at the hearing, the decision of the First-tier Tribunal clearly referred to a brother-in-law. Mr Fripp's statement of truth which accompanied the grounds contained references to a brother-in-law. This issue could have been raised in the grounds of appeal, therefore. There was no explanation of why this did not happen. My conclusion was that this was a new challenge, one that could have been raised earlier but was not, with no explanation for that omission. There was no formal application to amend the grounds to include it and seek permission to appeal. Further, there was evidence from an Arabic linguistic expert or other evidence such as a witness statement from the appellant providing any support for this submission other than the appellant's evidence before me that he did not have a brother-in-law in Al Rashidiya camp. Given those matters, I did not find that this submission was admissible.

32. I therefore concluded that Ground 1 does not have merit.

33. The appellant's second ground of appeal challenges the judge's approach to the Fatah identity card, set out in paragraphs 38 to 44 of the decision. The appellant maintains that the First-tier Tribunal reached an irrational conclusion in finding that the identity document showed the appellant to be a payroll manager.

34. I did not find that this ground had merit. In paragraph 42 of the decision the judge sets out that he was aware of the appellant's evidence and the submissions of his legal representative concerning his identity document. It remained open to the judge to place more weight on the opinion of Dr George that the ID card showed that the appellant worked as a payroll

manager for Fatah. Dr George's report shows in paragraphs 25 to 27 on page 255 of the appellant's first bundle that he has extensive experience of dealing with the style and format of documents used by stateless Palestinians in Lebanon, has prepared document authentication reports up to approximately 500 times in addition to his acting as a country expert on country conditions, that he is used by the Home Office National Document Fraud Unit to assess documents. The appellant maintains that it was obvious that the identity card showed clearly that the references to the payroll manager were pre-printed and referred only to the person issuing the identity card and not to him. If this was so, it is not clear to me why no attempt was made to clarify the matter with Dr George or another opinion obtained, there having been ample time to do so since the appeal was first heard in 2016. The judge's reasoning on the identity card in paragraph 43 does not disclose legal error.

35. The appellant's third ground of appeal objects to the judge's approach to Dr George's opinion that his sources in Lebanon had provided an alternative, valid basis for the appellant being in need of international protection. I did not find that this ground had merit in light of what is recorded in paragraph 55 of the decision. The judge records in paragraph 55 that the appellant was asked about whether he "associated with the evidence obtained by Dr George regarding his involvement with Sawaed and a conflict with a Mr Maarouf". The appellant "was unequivocally clear in dissociating himself from this background". The appellant does not accept the factual matrix that underpins Dr George's view of the alternative basis of claim, therefore. He says it is not correct. Where that is so, the First-tier Tribunal was clearly correct to find that the appellant could qualify for protection on the alternative basis suggested by Dr George. It cannot be right that an asylum-seeker can obtain protection on the basis of an account which he says is not correct and from which he overtly dissociates himself.

36. The grounds go on to argue that the judge erred in paragraph 56 in finding Dr George's opinion on the alternative basis of claim was undermined by Dr George's comments that no source he relied upon could be completely beyond criticism where they had to remain anonymous and it was not possible to identify whether the information was first or second-hand or even less direct than this. I am astute to the fact that this was an issue identified by Upper Tribunal Judge Blum in his error of law decision dated 22 November 2018 and that it was one of the reasons which led to the decision of Judge Anstis being found to show an error on a point of law. It remains the case that First-tier Tribunal Judge Mill did not decline to find that the appellant was a refugee on the basis of the alternative claim put forward by Dr George merely because Dr George's sources could not be said to be sufficiently reliable. He did so, legitimately, and rationally, as discussed above, because the appellant says that the basis of claim put forward by Mr George is not true. Where that is so the First-tier Tribunal

could not have allowed the appeal on the basis of the alternative basis of claim raised by Dr George in his report.

37. The appellant's fourth ground of claim relates to the judge's findings of whether the appellant and his family would face very significant obstacles to reintegration on return to Lebanon, the test in paragraph 276ADE(vi) of the Immigration Rules. The judge's consideration of this aspect of the claim is set out in paragraphs 64 to 78 of the decision. The appellant's grounds maintain that the decision deals insufficiently with the evidence of Dr George contained in paragraphs 60 and 61 and 69 to 97 of his report on the conditions faced by stateless Palestinians in Lebanon and that the judge therefore took an incorrect to the country guidance decision of MM and FH (stateless Palestinians, KK, IH, HE reaffirmed) Lebanon CG [2008] UKAIT 00014. However, as Ms Everett pointed out at the hearing, a great deal of the material set out by Dr George predates the decision in MM and FH. Further, the material set out by Dr George which post-dates that decision sets out difficulties for Palestinians in Lebanon very similar to those found in MM and FH, albeit he notes there are now additional stresses in the refugee camps because of Palestinians fleeing Syria. For example, paragraph 115 of MM and FH confirms the finding in an earlier country guidance case on the high levels of unemployment for Palestinians in Lebanon. This is consistent with the extract from a 2010 report referred to on paragraph 82 of Dr George's report on page 271 of the bundle. I was not taken to any specific comments made by Dr George in his assessment of the difficult circumstances faced by Palestinians in Lebanon or to any other materials that amounted to "very strong grounds supported by cogent evidence" as required by SG (Iraq) v Secretary of State for the Home Department [2012] EWCA Civ 940 for a country guidance case to be distinguished and not followed.

38. Further, as set out in paragraph 73 of the decision, the First-tier Tribunal judge was provided with country evidence that post-dated Dr George's 2016 report by way of the Country Policy and Information Note "Lebanon: Palestinians" which was published on 22 June 2018. The judge indicates that the CPIN was consistent with the ratio of the country guidance case of MM and FH and nothing in the submissions or materials before me indicated otherwise.

39. Mr Fripp also questioned the reliance on the findings made in the context of a protection claim in the "very significant obstacles to reintegration" assessment and the wider proportionality assessment which Judge Mill conducted in line with paragraph 276ADE(vi) and under Article 8 ECHR outside the Immigration Rules. It was my view that this aspect of the grounds only asserted that an error arises where the country guidance assessment is concerned with different legal tests to those pertaining in the Article 8 ECHR assessment that had to be conducted here. In what material way was the judge's reliance on the country guidance decision of MM and FH in error because that is a protection case and not an Article 8

ECHR case requiring consideration under the more recent, structured regime? The standard of proof in a protection claim is the "lower" standard. That cannot be a higher standard than which had to be applied by the judge here to the appellant's Article 8 ECHR claim. If the material difference arises from something other than the standard of proof, what is it? Mr Fripp did not elaborate on the generalised submission made in the written grounds in his oral argument. The First-tier Tribunal clearly applied the correct tests in the Article 8 ECHR assessment. He specifically considered the position of the appellant's minor children in paragraphs 67 to 70 of the decision. The judge considered the particular profile of the wider family in paragraphs 76 to 82. As above, the judge was entitled to proceed on the basis that the appellant had relatives who were connected with the Popular Committee of Al Rashidiya camp and that his wife's uncle constituted "a protective factor". The judge was entitled to find that in the context of the country evidence on the difficulties faced by stateless Palestinians in Lebanon, this family, including the children, could not be said to face very significant obstacles to reintegration on return or would face a disproportionate breach of their Article 8 rights.

40. I therefore found that ground 4 did not have merit.

41. For all of these reasons, I found that the decision of the First-tier Tribunal did not disclose a material error on a point of law.

Notice of Decision

42. The decision of the First-tier Tribunal does not disclose an error on a point of law and shall stand.

Signed:  Date: 19 February 2020

Upper Tribunal Judge Pitt