

REFUGEE STATUS APPEALS AUTHORITY
NEW ZEALAND

REFUGEE APPEAL NO 76009

AT AUCKLAND

<u>Before:</u>	B A Dingle (Chairperson) M A Roche (Member)
<u>Counsel for the Appellant:</u>	E Griffin
<u>Appearing for INZ:</u>	No Appearance
<u>Dates of Hearing:</u>	27 and 28 February 2007
<u>Date of Decision:</u>	27 March 2007

DECISION DELIVERED BY M A ROCHE

[1] This is an appeal against the decision of a refugee status officer of the Refugee Status Branch (RSB) of the Department of Labour (DOL), declining the grant of refugee status to the appellant who is a citizen of Kuwait.

INTRODUCTION

[2] The appellant arrived in New Zealand in November 2004. She had a visitor's visa and was granted a visitor's permit on arrival. Following the expiry of her visitor's permit on 16 January 2005, she appealed to the Removal Review Authority against the requirement to leave New Zealand. On 17 February 2006, a decision was issued by the Removal Review Authority dismissing her appeal. On 27 February 2006, she applied for refugee status. She was interviewed about that application by a refugee status officer on 27 March and 14 April 2006. Her application was declined in a decision dated 19 December 2006, leading to her appeal to this Authority.

[3] The appellant claims to be at risk of being persecuted in Kuwait because of her marriage to an Iraqi national (now deceased). She claims that both her family

and the Kuwaiti authorities have subjected her to severe mistreatment in the past because of her marriage and that, should she return to Kuwait, their mistreatment of her will not only continue but worsen.

[4] The essential issue to be determined in this appeal is the credibility of the appellant's claims concerning the mistreatment she has experienced in Kuwait as a result of her marriage.

THE APPELLANT'S CASE

[5] What follows is a summary of the evidence given by the appellant at the hearing. An assessment of that evidence follows later in this decision.

[6] The appellant is aged in her early 50s. She was the second child born into a large, wealthy Kuwaiti family. The family were Sunni Muslims.

[7] The appellant was an independent individual and her father's favourite child. As a young teenager, she decided that she did not wish to be financially dependent on her family and obtained employment in a warehouse for a branch of the Kuwaiti Civil Service. She simultaneously continued her education.

[8] In 1970, while working in the warehouse, she met her Iraqi husband, LL, when he came to buy goods there. LL was already married to his first wife who was an Iraqi national named MM. The appellant and LL formed a relationship and decided to marry. The appellant's father gave permission for the marriage despite the strong disapproval of the other members of the appellant's family who disapproved of Kuwaitis marrying Iraqis. When he consented to the marriage, the appellant's father did not realise that LL was a Shi'ite.

[9] In 1971 the appellant and LL travelled to Iraq and were married in LL's home city there. None of the appellant's family members attended her wedding. On her return to Kuwait, the appellant lived with LL and his first wife, MM, in a different suburb of Kuwaiti City from that where her family lived.

[10] From the time of her marriage, the appellant experienced hostility from most of her family because LL was an Iraqi. The exception was her father and she continued to visit him in the family home from time to time. The appellant had two daughters to LL during the 1980s. MM already had two sons when the appellant and LL married and had a further son during the 1980s. The appellant's daughters

had Iraqi rather than Kuwaiti citizenship because Kuwaiti citizenship is inherited from the father rather than the mother.

[11] The appellant's father died shortly before the first Gulf War. The appellant thereafter ceased her visits to her family home as none of her other family members, including her mother, would see her.

[12] Following the liberation of Kuwait in February 1991, the appellant, LL and MM decided to take their family to Iraq. They hired a car and a driver to take them across the border and, in the course of their preparations, terminated their lease on the home they had been renting and sold all the possessions they did not intend to take to Iraq. On their way out of Kuwait, they stopped at the appellant's family home so that she could bid her mother farewell before she left the country permanently.

[13] However, on arrival at her family home, she was grabbed by her older brother, TT, who refused to allow her back into the car because he thought that having a sister living in Iraq would bring shame on the family. An altercation followed, witnessed by the five children who were waiting in the car. LL and TT both fought for the appellant, attempting to pull her in different directions but eventually TT prevailed and LL, MM and the children left Kuwait without her.

[14] TT then made the appellant a prisoner in the family home. She was kept in a locked section of the house and permitted no contact with the outside world, apart from the servants of the household who brought her meals. She was not even permitted to use a telephone.

[15] In or around September 1991, approximately six months later, the appellant was taken from her family home by members of the *Al Amin* (the Kuwaiti Intelligence Service). She was blindfolded while still in the house and taken to a building where she was held in detention in a cell with approximately 40 other women for seven days. During this time, she was questioned every day about her links with, and activities on behalf of Iraq. In the course of this questioning she was beaten, subjected to threats of torture and sexually assaulted by her interrogator. After seven days she was allowed to return home.

[16] Her brother TT was furious at the shame brought on the family by *Al Amin's* interest in the appellant and within a few days of her arrival back at the family home, she was returned to her imprisonment in a locked section of the house.

Approximately two days after her return and prior to her re-imprisonment, neighbours visited her and informed her that her mother had died while she was in detention. The appellant's own family had not bothered to tell her this.

[17] The appellant's life then formed a pattern of imprisonment in her family home interrupted by regular questioning by the *Al Amin*. This questioning was frequent in the first year, and though it became less frequent, it continued to be regular throughout the remainder of the time the appellant resided in Kuwait. *Al Amin's* questioning formed a regular pattern whereby the appellant would be either collected from her home or summonsed to report to her local police station where she would be questioned for variable periods, usually three or four hours, before being allowed to return home. Apart from the first period when she was detained for seven days, she was not physically mistreated by her interrogators during these questioning sessions.

[18] Over time, the terms of her 'imprisonment' within the family home changed. She was permitted to leave the home, accompanied by a servant, to attend medical appointments, her questioning sessions with *Al Amin*, and to go shopping.

[19] In 1995, messengers sent by LL (the appellant's husband) called at the family home and asked a servant there to tell the appellant to meet LL in Jordan. The appellant received permission from *Al Amin* and her brother to make this trip and duly flew from Kuwait to Jordan where she stayed with her husband for approximately six months. Her husband had been trying to organise residency for the whole family in Jordan but was unsuccessful. The appellant duly returned to Kuwait. Although *Al Amin* had given her permission to be out of Kuwait for only three months, she experienced no difficulties as a result of overstaying this permission, apart from being questioned some time after her arrival.

[20] In the late 1990s, LL travelled to Australia and sought refugee status there. In 2001, he contacted the appellant and asked her to join him in Australia. The appellant duly obtained a multiple entry visa to Australia and, after securing permission from her brother and *Al Amin*, travelled to Australia where she joined LL. She returned to Kuwait after approximately six weeks in Australia but, in July 2001, returned to Australia where she found that LL had become extremely unwell. In Australia, she was issued a one-year residency visa. LL decided to leave Australia because, due to his poor health, he wished to see his children who were now in Syria. The appellant travelled to Syria from Australia with him and then returned to Kuwait.

[21] In April 2002, LL travelled from Syria to New Zealand and claimed refugee status here. He was granted refugee status by the RSB in May 2002. Between 2002 and 2004, the appellant made regular trips outside Kuwait travelling to Syria and Lebanon. Each time she went, she was required to get permission from *Al Amin* and also needed the permission of her brother, TT, to travel. While in Kuwait she remained locked in her section of the family home and also continued to be subjected to questioning, approximately every two months, by *Al Amin*. The purpose of her travel to Syria during this time was to attempt to organise residency there for her daughters. She was unsuccessful in this.

[22] In 2002, the appellant's oldest daughter married an Iraqi who was resident in the United Kingdom and went to live there with him. In late 2003, the appellant made a trip to Syria in order to obtain her younger daughter's Iraqi passport. She took the passport to Kuwait and, in January 2004, had a temporary Kuwaiti residence permit endorsed in it. She again travelled to Syria, collected her younger daughter, and brought her to live with her in the family home in Kuwait City.

[23] The appellant's extended family were furious that she had brought her Iraqi child to live in Kuwait because they considered that this would further embarrass the family. They told her that she would not be able to remain in the family home with her daughter.

[24] In January 2004, the appellant left her daughter in the family home and travelled to London to visit her older daughter who was due to give birth. Her grandson was born approximately one month later in February 2004. Some weeks after the birth, the appellant returned to Kuwait where she remained living with her daughter until mid-August 2004. During this time, the appellant's family called a family meeting about her and told her that she was to take her daughter and to leave Kuwait.

[25] In mid-August 2004, the appellant and her younger daughter travelled together to the United Kingdom where they stayed for approximately three months with the appellant's elder daughter and her family. In late November 2004, the appellant, both her daughters, her son-in-law and her grandson travelled to New Zealand. The purpose of the visit was to see LL who was very ill and not expected to live long. The appellant's younger daughter claimed refugee status on arrival in New Zealand on the basis of difficulties her family had experienced in Iraq.

[26] In February 2005, LL died.

[27] Two of the appellant's step-sons also now reside in New Zealand where they have refugee status.

[28] In November 2006, the appellant's younger daughter was granted refugee status in New Zealand.

[29] The appellant now resides with her daughter and one of her step-sons in Auckland. She does not wish to return to Kuwait. She fears that her long absence from Kuwait will have re-ignited *Al Amin's* suspicion about her and that she will be interrogated and mistreated by them on return. She also fears that her family will subject her to imprisonment and violence including the possibility of an honour killing because of their hatred of her due to her marriage to an Iraqi. She claims that her older brother has already threatened to kill her in this way. Finally, after many years of separation from her, the appellant wishes to live with and care for her younger daughter.

Documents and submissions received

[30] Counsel filed written opening submissions prior to the hearing. Additional written submissions, dated 16 March 2007, addressing the issue of credibility were also filed.

THE ISSUES

[31] Article 1A(2) of the Refugee Convention provides that a refugee is a person who:

"... owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it."

[32] In terms of *Refugee Appeal No 70074/96* (17 September 1996), the principal issues are:

(a) Objectively, on the facts as found, is there a real chance of the appellant being persecuted if returned to the country of nationality?

(b) If the answer is yes, is there a Convention reason for that persecution?

ASSESSMENT OF THE APPELLANT'S CASE

Credibility

[33] Before determining the framed issues, it is necessary to make an assessment of the appellant's credibility.

[34] The Authority did not find the appellant to be a credible witness. After hearing her and questioning her over two days, we formed the view that she was a completely unreliable witness who was prepared to say anything to advance her refugee claim. Her evidence was both internally inconsistent and inconsistent with statements she had made about events in Kuwait when interviewed by the refugee status officer.

[35] A number of matters about which the appellant gave evidence concerned incidents that had been witnessed by her younger daughter and by the adult step-son with whom she presently resides. She elected not to have either her daughter or her step-son give evidence in support of her appeal.

[36] At the commencement of the hearing, the Authority advised counsel that it may draw an adverse inference from the appellant's failure to call witnesses who should be able to corroborate important aspects of her account.

[37] However, the Authority records that even were this factor not present in this appeal (the failure to call potentially corroborative witnesses), the problems with the appellant's account were such that the Authority must reject it in its entirety.

[38] In its decision, the RSB took issue with the claim that the appellant's husband had two wives and made a finding that the appellant and MM were the same person. The Authority does not share the RSB's concerns regarding the appellant's identity. She had presented to us a valid Kuwaiti passport that clearly identifies her as the person she claims to be. We have no reason to doubt the veracity of this passport which the appellant has used to travel extensively. The Authority notes that it has also been accepted by a panel of this Authority (differently constituted) that the appellant's youngest daughter is an Iraqi national who was born in Kuwait but lived in Iraq following the first Gulf War and that the

daughter's mother (the appellant in this case) remained in Kuwait after that war.

[39] The Authority accepts the bare biographical details supplied by the appellant. It is accepted that she married an Iraqi national and had two daughters with him in Kuwait. It is also accepted that the appellant's husband had another, Iraqi wife who had three sons. Her account of mistreatment, at the hands of her family and at the hands of *Al Amin*, as described to this Authority, is rejected for reasons which follow.

[40] Prior to assessing the appellant's evidence some matters raised in counsel's submissions of 16 March 2007 will be addressed. Counsel asserted that the appellant's evidence was almost entirely consistent. She also submitted that the appellant's inability to accurately recall dates should not impact negatively on her credibility. Finally, she submitted that the appellant's claims were plausible in light of country information concerning domestic violence against women in Kuwait and the issues surrounding the 1991 invasion of Kuwait by Iraq.

[41] Contrary to counsel's submission, the Authority did not find the appellant's evidence consistent. We found her to be largely untruthful. Our assessment is not related to problems that she may have had remembering dates, but rather to persistent contradictions concerning both core and peripheral matters in her account. As is noted in the conclusion of this decision, it is accepted that a Kuwaiti women married to an Iraqi national may have had difficulties with the Kuwait authorities in the aftermath of the First Gulf War. We do not however accept that, apart from her bare biographical details, that the appellant has provided a truthful account of her experiences in this regard.

[42] As noted above, some parts of the appellant's evidence which were problematic went to the heart of her claim, such as the problems with her family and her account of her detention and treatment by *Al Amin*. Others were more peripheral but the nature of the problems with the appellant's testimony, in these areas of evidence, underscored her unreliability.

[43] We turn first to the areas of her evidence where there were problems which go to the heart of her claim.

"Imprisonment" in her family home and treatment by her family

[44] The appellant has claimed that her marriage to an Iraqi was a source of

shame to her Kuwaiti family and engendered their hatred of her and her daughters. She claimed to the Authority that following the departure of her husband and daughters, she was imprisoned in a section of her family home that was kept locked, that she did not have access to the key, and that she had no means of communication with the outside world. She claimed not to have had a telephone in this "prison" from 1991 to 2004.

[45] Despite her claimed imprisonment, the appellant revealed in her evidence that she was permitted to leave the home at will to attend medical appointments and to shop. She was supplied with a driver. She was permitted to leave the country frequently.

[46] The appellant's claim to have been imprisoned was contradicted by her when giving evidence about the manner in which she learned of her mother's death, another problematic area in her evidence. To the Authority she claimed that approximately two days after she returned from her seven day detention, she was informed by visiting neighbours that her mother had died approximately seven days earlier. Her claim to have been able to converse with the neighbours was at odds with her claim to have been imprisoned and denied contact with the outside world. When questioned as to how she was able to converse with the neighbours, she claimed that her brother did not imprison her for several days after her return from detention. This explanation is not accepted. She has never before mentioned a break in her 'imprisonment' at this time and we are satisfied she did so at the hearing only to cover up an inconsistency in her evidence.

[47] The timing of the appellant's claimed conversation with the neighbours was at odds with her account to the RSB. The appellant made various claims to the RSB about the circumstances in which she learned of her mother's death, including the following statement recorded in the transcript of her second RSB interview, "When my mum got sick and died, I was not there. Sixteen days later after her death, I heard it from the neighbours". When questioned about this, she denied that she had ever claimed that 16 days had passed before she learnt her mother had died and, in a pattern that continued during the hearing, blamed the inconsistency on interpreting errors at her RSB interview.

[48] On her own evidence, there appears to have been little, if any, restriction imposed by her family on her liberty and her ability to move within Kuwait and internationally at will. While she may have had difficulties with her family because of her marriage to an Iraqi, the Authority is satisfied that whatever those difficulties

may have been, they were not as she described to the Authority.

[49] Another area where her evidence concerning her difficulties with her family was problematic concerned an incident she claims occurred during a family meeting, at which her daughter was also present. This meeting was called to address the problem of her daughter's presence in Kuwait in 2004. To the Authority she claimed that her younger brother, NN, raised a pistol to her head and threatened her during this meeting. She also gave evidence that this was the only time she had been threatened with a pistol by a member of her family.

[50] In contrast to this, the appellant gave evidence to the RSB of an incident in which her brother NN had threatened her by holding a pistol to her head but told the RSB that this incident occurred following the birth of her second daughter in 1987. In the transcript, it is recorded that her brother told her on this occasion "that she had given birth to another problem" and threatened to kill her so that the family could be rid of her.

[51] When asked about the inconsistency, the appellant denied ever saying that such an incident occurred following her daughter's birth and blamed the inconsistency on interpreting errors.

[52] In addition to the problems caused by her husband's nationality, the appellant claimed that problems had been caused with her family because her husband was a Shi'ite and because, after her marriage, she converted from the Sunni to the Shi'ite branch of Islam. At the RSB, she was questioned as to why her father had not known before her marriage that her husband was Shi'a. In explanation she is recorded as stating, "My dad was a simple, illiterate man. Can't read." She went on to state that her father had found out later from her mother that her husband was Shi'a and that, in reaction to this, he had then told her "I'm ready to accept you and your daughters to come to my house and visit us, but I am not ready to receive your husband."

[53] To the Authority, the appellant claimed that her father was an extremely wealthy businessman who dealt in real estate and who, with his brothers, established a food importing business. She also stated that he had attended school and that he managed the accounting side of the business and had taught her how to manage documents. She claimed to the Authority that her father had never learned that her husband was a Shi'ite nor that she had converted, and that he died without knowing this. When asked about her inconsistent evidence about

her father's literacy and his reaction to her conversion, she once more denied having made the statements she is recorded as making to the RSB and blamed interpreting errors.

Ability of appellant to use a telephone

[54] The appellant claimed to the Authority that while 'imprisoned' in her family home she was not allowed to use the telephone. She stated, "Even my small phone was taken off me." When asked when the telephone had been taken from her, she said that it was in 1991 and confirmed that between 1991 and 2004 she was not permitted to receive telephone calls. When asked whether she had talked to anyone on a telephone between 1991 and 2004, she replied that she had not.

[55] When giving evidence about how her husband had been able to tell her to meet him in Jordan in 1995, she claimed that he had sent messengers who came to the house and passed a message to her through the servants. Her evidence at her RSB interview on this point, however, was quite different. To the refugee status officer, she claimed "Once my husband came to Jordan and contacted me by phone and I went to see him." When asked about the discrepancy, she did not deny that she had told the refugee status officer that her husband had contacted her by telephone but asserted that whether he sent people or telephoned her, it was the same.

[56] Her claim to have been unable to contact the outside world by telephone was further undermined when she gave evidence that her husband had contacted her from Australia. When asked how he had managed to do this, she claimed that she had purchased a mobile telephone in Syria and smuggled it back to Kuwait, contradicting the unequivocal evidence given earlier in the hearing that she had been unable to talk to anyone, even her husband, by telephone in Kuwait between 1991 and 2004.

Difficulties with the Kuwaiti authorities

[57] To both the RSB and the Authority, the appellant claimed to have been subjected to a seven-day period of detention in 1991, during which she was beaten, sexually assaulted and threatened with torture. However, her evidence about this episode was inconsistent in material aspects.

[58] The Authority would not expect the appellant to be able to recall clearly

everything that occurred during a seven-day period of detention more than 15 years earlier. However, the account of this detention which she gave to the RSB was very specific in relation to some matters and it was with respect to these matters that her evidence to us was inconsistent. For example, she claimed at the RSB to have been interrogated once a day during the seven days she was detained. She claimed that this interrogation took place at 2am every morning and that she knew that it was 2am because she had a watch and could tell the time. To the Authority, she claimed that she had been interrogated every day at dawn. When asked what time this daily interrogation had taken place, she replied that she had no idea what the time was because she had no watch while in detention.

[59] Another inconsistency relates to her claim to have been blindfolded while being taken to the detention centre. To the Authority, she gave evidence that she was blindfolded in her house. At one point in her RSB interview, however, she claimed to have been blindfolded in the car. Her answers were recorded as follows:

- “Q: At what point exactly did they blindfold you?
A: Just after I got into the car, I was told that I would be blindfolded and they did.
Q: Were you blindfolded immediately when you got into the car?
A: Yes, he beckoned me to lower my head and he blindfolded me.”

[60] When asked by the Authority if she wished to comment on this discrepancy, the appellant was adamant that she had been blindfolded in the house. She could not sensibly explain her earlier evidence to the contrary. The appellant’s contradictions indicate to us that her evidence about her seven-day detention was untruthful.

[61] Even accepting that the appellant may have been of some interest to the Kuwaiti authorities in the aftermath of the First Gulf War, there would seem to have been no basis for any ongoing interest in her. Yet she claims to have been suspected of being a spy for the Iraqi government and to have been questioned repeatedly about her spying activities, year in and year out. We find her claim to have been repeatedly interrogated implausible and at odds with the fact that no impediment was placed on her international travel by the Kuwaiti authorities.

[62] She made frequent lengthy trips away from Kuwait. Although she claims to have had to seek permission from *Al Amin* each time and to have been restricted to trips out of Kuwait for three months or less, on her own evidence, she faced no

repercussions when she overstayed this three-month period.

[63] When questioned as to whether she had any difficulties departing Kuwait for the first time after the war (when she flew to Jordan), she claimed that she had been kept aside from the queue of passengers. However, she also gave evidence that she was concerned about the length of the queue and missing her flight and so approached a policeman. She then claimed variously that she never joined the queue and also that she had joined the queue on the direction of the policeman she approached. The Authority formed the impression that her evidence was wildly untruthful and that she was simply saying anything that came into her head as she attempted to square the fact that she was able to leave Kuwait without difficulty with her claim to have been, contemporaneously, of considerable ongoing interest to the Kuwaiti authorities.

[64] The appellant's claim that she has had longstanding difficulties with the Kuwaiti authorities because of their suspicion that she is a spy for Iraq is rejected. This rejection is based on the problems with the appellant's evidence about her dealings with *Al Amin*, the implausibility of the Kuwaiti authorities maintaining an interest in her fifteen years after the conclusion of the First Gulf War, and the fact that since 1995 at least, the appellant has been able to conduct frequent international travel on her Kuwaiti passport with the knowledge and approval of the Kuwaiti authorities.

Evidence about her daughter

[65] The appellant claimed that, while in Kuwait, she was imprisoned in her home by a cruel family who hated her and that the head of the family, her brother TT, frequently subjected her to violent beatings and even threatened to kill her. She also claimed that her family's antipathy towards her was aggravated by the fact that she had brought her younger daughter from Syria to live in the family home and that they told her they must both leave.

[66] Despite this, her passport shows that she was issued a visa to enter the United Kingdom on 15 December 2003, and that, in January 2004, the same month she claimed her daughter arrived in Kuwait, the appellant departed for London where she remained until March 2004. When asked, she explained that the purpose of the trip was to support her elder daughter who was about to give birth to her first child.

[67] The Authority questioned why, if her family bore such animosity towards her daughter, she would have left her alone with them for an extended period of time. She initially tried to explain such a surprising act by saying that she had been very worried about her younger daughter but that she had had no choice as her elder daughter was critically ill. However, when pressed for details on this she conceded that her daughter had simply been informed that she was carrying a large baby, was anticipating a difficult birth, and wanted her present.

[68] The appellant's willingness to leave her recently-arrived younger daughter in the home of her extended family for more than a month for such a tenuous reason further undermines her claims to have lived in fear of them. Although she and her elder daughter may have wished to be together at this time, there was no medical emergency or anything else that would have necessitated the younger daughter being left in an unsafe environment for an extended period of time. The conclusion that the Authority draws from this evidence was that the younger daughter was neither unwelcome nor unsafe in the family home in Kuwait, otherwise she would not have been left there.

Daughter's Kuwaiti residence permit

[69] The appellant gave evidence to the Authority that she had acquired a temporary residence permit for her younger daughter in January 2004 and that it expired in June 2004. She claimed that she was warned that her daughter may not receive another such permit and that her daughter then "overstayed" this permit, necessitating the payment of a fine on her departure which was calculated at the rate of 30 *dinars* for each month the daughter had overstayed.

[70] After giving this evidence, the appellant was shown a photocopy of a page of the Kuwaiti residence permit in her daughter's passport which states that it was issued in April 2004 and did not expire until April 2006. In response, she admitted that she did not pay an overstaying fine on behalf of her daughter and that, when giving evidence, she had simply said whatever came into her mind.

[71] The length of her daughter's permit and the question of whether she became an "overstayer" in Kuwait is a peripheral matter of no real importance to the appellant's core claim to be at risk of being persecuted by her family and the Kuwait authorities. Nevertheless, her willingness to lie reinforces our view of her unreliability as a witness.

[72] While giving evidence the appellant resorted several times to sheltering behind the claim that she may have given incorrect details about her claim to the RSB. However, when asked whether she had deliberately lied to the RSB, she drew a distinction between her evidence to the RSB and her evidence to the Authority, claiming that only her evidence to the Authority was given under oath. That is not a proper explanation for giving either deliberately untruthful, or even simply careless evidence to the RSB. In any case, the Authority is satisfied that she gave false evidence at the appeal hearing, both concerning matters at the core of her refugee claim and concerning peripheral matters, such as the length of her daughter's Kuwaiti residence permit.

Criticism of interpreter

[73] The appellant made repeated claims throughout the appeal hearing that the inconsistencies between her evidence to the Authority and the statements she made at her RSB interviews could be explained by interpreting errors.

[74] The appellant made no objection to the Arabic interpreter at either of her RSB interviews and confirmed at the commencement of both that she was able to understand her. No issues of misinterpretation were raised in her response to the RSB interview report, filed on her behalf by counsel. The same interpreter was used again for the appeal hearing. Again, the appellant made no objection to her involvement and confirmed that she was able to understand her. Over the course of the two-day appeal hearing, the Authority observed that the appellant and the interpreter were communicating without any apparent difficulty.

[75] We are satisfied that the RSB interview report is an accurate record of the statements made by the appellant at her RSB interviews and that her allegation that the interpreter was responsible for the inconsistencies was simply a device by which she attempted to cover up her unreliability as a witness. In any case, our finding concerning her credibility is not based solely on inconsistencies in her RSB interview transcript but also on our impression of her as a witness, the inconsistencies and other problems with her evidence at the appeal hearing, and her failure without explanation, to provide any corroborative evidence from her family members in New Zealand who, she said, witnessed a number of the key events in her account.

CONCLUSION

[76] The appellant's evidence was such that the Authority rejects her evidence in support of her refugee claim in its entirety. The appellant may well have had difficulties in Kuwait as a result of her marriage to an Iraqi national. We can only speculate as to what these were. We are satisfied that her account of her experiences to us was false.

[77] The appellant has failed to establish that she faces a real chance of being persecuted if returned to Kuwait. We find therefore that she does not have a well-founded fear of being persecuted there. This being the case, it is unnecessary to determine the second issue of Convention reason.

[78] The appellant is not a refugee within the meaning of article 1A(2) of the Refugee Convention. Refugee status is declined. The appeal is dismissed.

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M A Roche
Member