

IMMIGRATION APPEAL TRIBUNAL

Date of Hearing: 12 August 2004
Date Signed: 9 September 2004
Date Determination Notified: 14/09/2004

Given orally in court

Before:

Mr J Barnes (Vice President)
Mr C P Mather (Vice President)
Mr M L James

Between

Appellant

And

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

For the Appellant: Mr A Salfiti, Solicitor, instructed by
Salfiti & Co, Solicitors

For the Respondent: Mr M Davidson, Home Office Presenting Officer

DETERMINATION AND REASONS

1. The appellant is a citizen of Syria, born on 20 January 1977 who arrived in the United Kingdom on 21 July 2001 with entry clearance obtained from the British Embassy in Damascus a few weeks previously. He travelled on his own valid passport which had been issued to him on 25 October 1999 and which expires on 24 October 2005. It shows that he has travelled extensively outside Syria prior to his arrival in the United Kingdom when he was granted 6 months leave to enter as a visitor pursuant to the entry clearance which had been granted to him.

2. On 15 January 2002, a few days before his leave to remain was due to expire, he claimed asylum and although he was requested to

attend the Home Office for interview on 14 February 2002 he failed to do so. He says this is because he did not receive the letter of invitation. He did submit a self evidence form and the Secretary of State refused his application for the reasons which were set out in a letter dated 6 March 2002. On 8 March 2002 the Secretary of State issued notice of his decision to refuse to vary leave following refusal of his asylum application.

3. The appellant appealed against that decision on both asylum and human rights grounds and his appeal was heard on 15 December 2003 by Mr A R Lawrence, an Adjudicator. The Adjudicator did not believe the basis of the claim which he had made and he dismissed his asylum and Article 3 claims for that reason. He accepted that the appellant had married a British citizen on 23 July 2002 but concluded that although he accepted that family life had been established in the United Kingdom his removal would not be disproportionate to the important consideration of a maintenance of regular immigration control, and so he dismissed the Article 8 claim also.

4. The appellant has been granted permission to appeal to us on the single point that it is asserted that the Adjudicator erred in not considering the current Syrian practice of detaining failed asylum seekers. There is no challenge to the adverse credibility findings or to the dismissal of the Article 8 claim. It follows therefore that so far as we are concerned this appellant had no past history in Syria which would be reasonably likely to bring him to the adverse attention of the Syrian authorities on return and that we are concerned solely with the single point raised in the grounds of appeal.

5. Mr Salfiti sought to rely on an Amnesty International report of January 2004 dealing with the risk on return to Syria which says that seeking political asylum abroad is perceived to be the act of government opponents by the Syrian authorities and that the very fact of leaving the country to seek asylum abroad is imputed to be a manifestation of opposition to the Syrian government. It draws attention to the fact that former political prisoners and those who have left illegally without authorisation or with false papers are generally at risk of arrest and detention upon their return. It says that if they are refused asylum seekers accompanied by security forces from the country where he or she has sought asylum, the Syrian government is likely to be made aware of a person's demand for asylum. In addition, Syrian secret service agents working abroad may become aware of requests for asylum as their task is to monitor the Syrian community and opposition abroad. Mr Salfiti did not suggest to us in his submissions that there was any real possibility that this appellant might have come to the attention of Syrian secret service agents working abroad and, indeed, as he has no political profile in his own country and has clearly been able to travel in and out

of it on a regular basis in the past there is no apparent reason why that should be the case. He did, however, stress that if he were forcibly returned he might then come to the attention of the Syrian authorities as a failed returned asylum seeker. He conceded however that given the fact that the appellant has a current valid passport in his own name regularly issued by his own government which on the appellant's own account bears a proper exit stamp on the occasion when he came to this country, that it would be open to the appellant to return on that document without there being any need for it to become known to the Syrian authorities that he had claimed asylum abroad. If he fails to depart voluntarily in that way it seems to us that he cannot then pray in aid the fact that he chooses to place himself deliberately at risk by ensuring that his removal is a forced return rather than the voluntary return which is properly open to him at the current time.

6. Mr Salfiti also submitted to us that the length of his absence abroad would of itself raise suspicions in Syria but, when pressed, was unable to point to any evidence at all to support such a proposition. He did refer us to the current United States State Department report issued on 25 February 2004 which records under the heading "Freedom of movement within the country foreign travel, emigration and repatriation" that "the authorities could prosecute any person found attempting to emigrate or to travel abroad illegally or who was deported from another country or who was suspected of having visited Israel". It does not seem to us that there is anything in that passage which the appellant can pray in aid to advance his appeal before us.

7. We were also referred to the Syrian Human Rights Committee Annual Report for the period 1 July 2002 to 30 June 2003, and in particular to the passage at pages 10 and 11 of that report under the title "third: the forcibly deported". In that short passage there is a reference to three people who have been forcibly deported and whom it is claimed have been subject to severe torture and interrogation on their return. We note however, that the first quoted, a Maher Arrar, was charged with co-operating with Al-Qaeda following his deportation by the United States and that others who are said to have faced difficulties were a number of Syrians forcibly deported from Pakistan "and delivered to Syria". That again, seems to be a clear reference in the current situation to there being suspicion once more of Al-Qaeda or similar Islamic extremist membership on their part. It is common ground in other parts of the report as well as in this section that those who are members of the Muslim Brotherhood are at particular risk but they, of course, are perceived to have a particular political agenda by the Syrian authorities.

8. Finally, it is reported that Syrian security forces have arrested Syrian and Palestinian nationals deported by Iran who suspected that

they may have been in Afghanistan; this again shows a potential Islamic extremist connection. There is nothing whatsoever in the history of this appellant to suggest that he comes into such a category and, indeed, it will be open to him if called upon to explain the length of time he has spent in this country to show that he entered into a marriage with a British citizen on 23 July 2002 with whom he has been living. There is, therefore, a clear and plausible explanation for the length of time which he has been abroad should that be a matter which would draw the adverse attention of the Syrian authorities. Although Mr Salfiti submitted that the length of period abroad would of itself lead to this he was again unable to point us to any evidence at all to support such a submission.

9. In those circumstances we are satisfied that on the evidence which has been put before us there is nothing to show that there is any real risk to this appellant, if he is now returned to Syria using his own papers as he is entitled to do, that he would be reasonably likely either to be persecuted for a Refugee Convention reason or to be treated in breach of his protected human rights.

10. For the above reasons this appeal is dismissed.

J Barnes
Vice President