

SPECIAL IMMIGRATION APPEALS COMMISSION

Field House,
Breems Buildings
London
EC4A 1WR

Wednesday, 2 July 2014

BEFORE:

THE HONOURABLE MR JUSTICE FLAUX
UPPER TRIBUNAL JUDGE WARR
SIR STEWART ELDON

BETWEEN:

HILAL AL-JEDDA

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

MR T HICKMAN and MS S KNIGHTS (instructed by Public Interest Lawyers) appeared on behalf of the Appellant. .

MR J SWIFT QC, MS K STEYN and MR R JONES (instructed by the Treasury Solicitor) appeared on behalf of the Secretary of State.

RULING
(For Approval)

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MR JUSTICE FLAUX:

1. On behalf of Mr Al-Jedda, Mr Hickman seeks to preclude cross-examination of Mr Al-Jedda on the question of the obtaining of the passport that he had in 2008. He does so, essentially, on grounds, first of all, that it is not relevant to any of the issues that the Commission has to decide since it is common ground that Mr Al-Jedda remained on the Iraqi register; secondly, he says that this only goes to cross-examination as to credit which we should not permit; and, thirdly, he says that it would be unfair to permit cross-examination in circumstances where the Secretary of State has declined to give them the disclosure which the appellant's solicitors have sought of all documents relating to what I might describe as the practice of obtaining passports by payment of money in Iraq at the relevant time.
2. It seems to us, firstly, that cross-examination on this issue should be permitted. We are unimpressed with the suggestion that this point could or should have been put by Mr Swift on behalf of the Secretary of State at the time of the hearing before SIAC in 2010 when Keith J was presiding. It does seem to us that the issue of how the passport was obtained has come into sharper focus since the obtaining of documents by the Secretary of State during the course of last summer 2013 from the Iraqi authorities to the effect that the passport is a genuine passport; none of which material was previously available to the Secretary of State. It does seem to us that cross-examination on this point is permissible and, potentially, relevant to the issue which the Secretary of State invites us to decide as a primary case, which is, whatever the position may be under the Iraqi Nationality Laws, the facts are that Mr Al-Jedda is an

Iraqi national and is recognised as such by the Iraqi authorities.

3. So far as the point about disclosure is concerned, it does not seem to us that disclosure of what might be described as the practice is going to assist the Commission in any way. As I indicated during the course of argument, we can effectively take judicial notice of the fact that there were circumstances in which people were paying officials for the obtaining of nationality documents and passports at the relevant time. It does not seem to us that that assists on the specific question as to what happened in the case of Mr Al-Jedda, so we refuse the application for disclosure and it does seem to us that there is no question of it being unfair to cross-examine Mr Al-Jedda without having that disclosure. We permit the cross-examination to take place.

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