

Appeal no: SC/29/2005
Date of Hearing: 2nd-5th October 2007
Date of Judgment:

SPECIAL IMMIGRATION APPEALS COMMISSION

Before:

THE HONOURABLE MR JUSTICE MITTING
SENIOR IMMIGRATION JUDGE LATTER
Mr J DALY
Mr J MITCHELL

BB

APPELLANT

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

RESPONDENT

Mr K STARMER QC, Mr H SOUTHEY, Mr D FRIEDMAN and Mr R HUSAIN
(Birnberg Peirce & Partners and Fisher Meredith Solicitors)

Mr R TAM QC and Mr R PALMER
(instructed by the Treasury Solicitor for the Home Department)

Mr N GARNHAM QC, Mr A NICOL QC and Mr M CHAMBERLAIN
(instructed by the Special Advocates' Support Office)

OPEN JUDGMENT

OPENED PARTS OF THE CLOSED JUDGMENT ON NATIONAL SECURITY

1. BB is a citizen of Algeria. He is now aged 41 years. He studied electronics in Algeria and in France. He was last in Algeria in 1992 when he was arrested at Algiers airport and interrogated about members of FIS in France and released. He returned to France. On 4th May 1995, he arrived in England from France on a visitor's visa. He did not return. On 26th February 1999, he submitted a written request for asylum to the immigration service, prompted by his arrest on 3rd February 1999. Subsequently, he married an Algerian citizen, Majda Nedjar, by whom he has three children, all resident in England.
2. It is common ground, and has never been disputed by BB, that, since 1995 he has been a regular attender at Finsbury Park Mosque and has sided with the faction of worshippers at the mosque of which the leader or figure head was Abu Hamza.
3. BB was arrested on 30th September 2003 and his home searched. He was released from detention on 14th July 2004, having served a term of 3 months imprisonment for possession of a false French passport and identity card. He was at liberty until his re-arrest on 15th September 2005.
4. Material considered in the closed session has satisfied us on the balance of probabilities that BB has enjoyed ready access to Islamist extremists at times when they were active in the United Kingdom which cannot be explained away as unfortunate coincidences.
5. The search of BB's home on 30th September 2003 revealed material which has assisted us to determine the nature of his activities.

6. Among the items recovered were the DHDS stamp and the laptop exhibit 240. The nature and activities of the DHDS are summarised in paragraphs 22 & 23 of the open decision in Y. The two most likely explanations for possession of the DHDS stamp are that BB himself used it for DHDS purposes or that he held it for others to use. His own explanation – in paragraphs 25 & 26 of his witness statement of 30th June 2006 – is implausible: that he collected it inadvertently in a cassette box; and that when he discovered that he had it he did not realise that he was doing anything wrong by keeping it. It was found in the flowerpot which served as a desk tidy on his desk. It must have been put there by him. He makes no secret of the fact that he supports, ideologically, Islamic extremist views. He can be taken to have known about the nature and activities of the DHDS. The inference that he was keeping it for some purpose related to the DHDS is compelling.
7. Examination of the hard drive of the laptop, exhibit 240, revealed, not only that the Eraser and History Kill programmes had been installed on it, but that they had been deleted, almost without trace. BB's explanation – in paragraph 51 of his witness statement of 30th June 2006 – is bland: that he would download free software to see how it worked, and that is why he had “software to wipe my computers”. He does not explain why he attempted to erase all trace of the downloading of the software. Witness E conceded that, because the erasing programmes had been used, it was impossible to tell what had been stored or processed on the laptop. Nevertheless, we are satisfied that BB used the erasing programmes to delete evidence which would have been incriminating of him or others, or both, if it had been retrieved.

8. We have checked our conclusions against the views expressed in the closed decision in Y about his links with BB. Our findings do not conflict with them.