

**Upper Tribunal**

**(Immigration and Asylum Chamber) Appeal Number: PA/10140/2017**

**THE IMMIGRATION ACTS**

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| **Heard at Field House** | **Decision & Reasons Promulgated** | |
| **On 24 May 2018** | **On 11 June 2018** | |
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**Before**

**DR H H STOREY**

**JUDGE OF THE UPPER TRIBUNAL**

**Between**

**Karim Mia**

(ANONYMITY DIRECTION NOT MADE)

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr I Khan, Counsel instructed by Universal Solicitors

For the Respondent: Mr N Bramble, Home Office Presenting Officer

**DECISION AND REASONS**

1. The appellant, a national of Bangladesh applied for asylum in September 2016, having arrived on a multivisit visa in April 2016. In a decision made on 21 September 2017 the respondent rejected that application. He appealed. His case came before Judge Paul of the First-tier Tribunal who dismissed his appeal. Judge Paul did not believe that the appellant was a political activist in the student wing of the Islamist political organisation, Jamaat-e-Islami. As regards numerous items of evidence produced by the appellant identifying him as Abdul Karim (not Karim Mia), the judge concluded that the appellant had failed to prove those related to him.

2. The grounds of appeal outline six grounds, it being submitted that the judge erred in:-

1. failing to consider that the respondent’s research (showing that the political activist involved with Jamaat-e-Islami was a different and much older person) only demonstrated that these were two persons known as Abdul Karim, one of whom was Abdul Karim, the youth activist;
2. in failing to give adequate reasons for concluding that the appellant had not established he was the Abdul Karim referred to in a number of cases filed against him at Moulvi Bazaar police station;
3. failing to acknowledge or take into account the appellant’s explanation about his identity;
4. failing to consider whether the appellant would have to conceal his identity in order to avoid oppression;
5. failing to consider all material circumstances when assessing the credibility of the witnesses who confirmed the appellant was known as Abdul Karim; and
6. failing to consider the cultural background of the appellant in respect of his name and identity; it being said that Karim Mia and Abdul Karim are very common names in Bangladesh culture and that people are commonly known in Bangladesh by their middle name.

3. I am grateful to both representatives for their submissions. Since both referred to paragraph 35 of the judge’s decision I shall first set it out and say something about it:

“It was a striking feature of this case that neither the Home Office Representative nor the appellant’s Counsel had, at any stage during the evidence, sought to clarify with the appellant whether or not the Abdul Karim referred to in the press release of April 2017 could have been him or possibly another person. It was a remarkable feature of the presentation of this case that neither side thought that it was worth exploring the evidence. When the appellant’s Counsel was challenged on this, he said that it was simply dealt with by reference to having a look at a map of Bangladesh. This demonstrated that Moulavi Bazaar is approximately 100-150 km away from the other place where Mr Abdul Karim had been arrested. That was in the Mymensingh district. The Abdul Karim arrested there was the District Secretary. It was asserted, therefore, that fact by itself that it could not be the same Abdul Karim. This seems to me to be a curious response. Clearly, the appellant had been put on notice that it was not accepted that he was Abdul Karim. Bearing in mind that the burden is on the appellant to prove his case, this seems remarkable (given all the documentary evidence that was obtained from Jamaat-e-Islami Organisation, that nothing authoritative was obtained to demonstrate that they were one and the same person and/or that he Abdul Karim arrested in April 2017 was a separate person. It seems doubly remarkable, given the extent to which the appellant (with the assistance of his Lawyer) has managed to obtain documents dating as far back as 2010 – indeed if that is that they are genuine documents – that at no stage was any effort made to try and explore the true identity or the separate identity of Abdul Karim.”

4. I agree with both representatives that the first two sentences are odd insofar as it was entirely clear throughout the evidence and submissions that the issue of the identity of the appellant (and whether he used two names) took centre stage and as part of that both representatives made submissions about the significance of the evidence relating to an Abdul Karim referred to in the press release of April 2017. The appellant’s case was emphatically that this press release referred to a different Abdul Karim; the respondent’s position was that this was the only Abdul Karim whose name came up when researching political activists connected with Jamaat-e-Islami (see paragraph 32 of the Reasons for Refusal Letter).

5. That said, the remainder of paragraph 35 clearly does address and evaluate the competing submissions that were made about the appellant’s identity and its contents is not undermined by the opening misdescription of the presentations of the two parties.

6. Rather than proceed straight to analysing the six grounds consecutively it is convenient to first of all ask the question whether the judge was entitled to conclude that the appellant had not established that he was a political activist involved in the student wing of Jamaat-e-Islami in his home district of Moulavi Bazaar.

7. Two initial observations are in order. First of all, it is clear that the judge assessed the appellant’s case by reference to the evidence as a whole including various witness statements, the oral evidence of two witnesses and a number of documents including several First-tier Tribunal Information Reports: see paragraph 3 – 29.

8. Second, the judge did not reject the appellant’s claim to have been a student at a college in Moulavi Bazaar and was prepared to accept that the appellant “may have been involved in the occasional run-ins with the police given the volatile political situation.” What the judge did not accept was that the appellant was a political activist with a profile as someone who had been targeted by the police and political opponents (the Awami League) for ill-treatment and the bringing of false politically motivated FIRs against him: see paragraph 41.

9. These observations are pertinent because the main documentary evidence relied on to show he had a significant profile as a political activist was in the form of five FIRs attesting that five criminal cases had been filed against the appellant. Yet in each of these the appellant was not referred to as Karim Mia but as Abdul Karim and his lawyer (Advocate Mr Rahman) also referred to him as “my client, Mr Abdul Karim.” There were also other documents which referred to the appellant as Abdul Karim, the judge noting at paragraph 29 that:

“There was also a document from the Bangladesh Islami Chhatrashibir dated 10 March 2017, which purports to confirm that Mr Karim (with the same parents as Karim Mia) had been active in the organisation and held various positions in the period from 2011 to 2014. There is also a letter from somebody purporting to the Representative of the Jamaat-e-Islami, dated 31 October 2017, confirming that Mr Abdul Karim was the President of the organisation in 2011. This person is described as the Spokesperson of the Jamaat-e-Islami in Europe, and gives a telephone number which appears to be an English mobile telephone number. This witness was not called to give evidence.”

10. Complementing these there were a number of documents and statements that made no reference to the appellant as Abdul Karim but only as Karim Miah, including the joint witness statement of his parents and his brother (see paragraphs 27 and 28).

11. Given this context I consider it was entirely justified on the part of the judge to conclude that the appellant had not discharged the burden on him to provide a satisfactory explanation for his claim that Abdul Karim and Karim Miah were one and the same person.

12. I consider that the judge gave sound reasons for concluding that the appellant failed to discharge the burden of proving that the critical documentation identifying him as a targeted political activist was reliable. The judge was entitled to count against the appellant that had failed to obtain any evidence from Jamaat-e-Islami verifying that Abdul Karim and Karim Mia were one and the same person; that despite claiming that he had been known throughout his life as Karim Mia and having a passport and college documents in the name of Karim Mia, two of his witnesses who had known him in 2004 and 2006 had said that they had only become aware that he was Karim Miah recently; that in contrast to the two witnesses’ evidence stating that the appellant had not discussed claiming asylum until seven months after his arrival in the UK, the appellant said in his screening interview he had said that he had “come to the UK to seek asylum (3.2)); and that in the appellant’s own account he had initially intended to return to Bangladesh (even though he claimed to have several trumped up criminal charges levelled against him): see paragraph 17.

13. Another important reason the judge gave for rejecting the appellant’s account was that the only objectively verified identification of a political activist associated with Jamaat-e-Islami in that part of Bangladesh was an Abdul Karim who patently could not be the same person as the appellant since he lived in another district and was considerably older. I consider that was a valid point. The appellant had had ample opportunity to produce objective evidence confirming the political activities of an Abdul Karim in his own district, yet he failed to do so.

14. Two of the principal points relied on by the appellant were that the judge failed to take into account the appellant’s explanation or cultural context that in Bangladesh people are commonly known by their middle name and that the judge failed to take into account the appellant’s explanations regarding his two names. Dealing with the latter point first, the appellant’s middle name was said in the grounds to be “Karim”. If people are commonly known by their middle name then that scarcely explains why his passport and college documents refer to him as Karim Miah. As regards the appellant’s explanation for having two names, it is entirely clear that he judge was aware of what his explanations had been in his asylum interview and in his written and oral evidence (in the former it was that his father had named him Abdul Karim but mistakenly in his certificates they named him Karim Miah (Q142); in the latter it was that the family name was critical and that was Karim Mia and that was why his name was on his birth certificate and that in any event people were identified by their own names together with their father’s name and village address (paragraph 14). Whilst the judge does not expressly address these explanations in his reasons set out at paragraphs 33-41, it is abundantly clear that he did not find them satisfactory because on the one hand the appellant was saying that he was known to everybody as Abdul Karim yet on the other hand that for bureaucratic purposes and throughout his life he was known as Karim Miah (paragraphs 36 and 38). The fact that the appellant’s two witnesses who gave oral evidence claimed they only learnt he was called Karim Mia (which he said was his family name) recently reinforced the judge’s reasons for concluding that here had been no satisfactory explanation of the reference to him in the FIRs as Abdul Karim.

15. In light of the above analysis I will now deal briefly with the appellant’s six grounds as pleaded.

16. As regards ground (1) I have already addressed this in paragraphs 9 and 13 above. As for ground (2) the judge plainly did give adequate reasons for finding the appellant had not given adequate reasons for why cases said to be filed against him referred to Abdul Karim. Ground (3) is dealt with above at paragraph 13. Ground (4) is hopeless. Ground (5) amounts to a mere disagreement with the judge’s negative assessment of the witness evidence. As regards ground (6), the cultural context did not in fact provide an adequate explanation for the different names.

17. For the above reasons I conclude that the grounds are not made out. Accordingly the decision of Judge Paul dismissing the appellant’s appeal must stand. It is not vitiated by any legal error.

No anonymity direction is made.

Signed: Date: 8 June 2018



Dr H H Storey

Judge of the Upper Tribunal