

Immigration Appeals Board Division II

Rajiv T. A. [REDACTED] 22L-008

vs

Agency for the Welfare of Asylum Seekers

Today 25th of May, 2023

This is a decision from an age assessment appeal lodged by appellant Rajiv T. A. [REDACTED] in terms of Article 25A (7) of the Immigration Act, Chapter 217 of the Laws of Malta. Appellant was served with result following an age assessment report held by AWAS on the 18th of January, 2023 which concluded that appellant is an adult.

The Immigration Appeals Board held various Board sittings during which documented evidence was presented by both parties to this appeal. All documented evidence presented by appellant is not authenticated. A bone age test indicated that bone age is more than 18 years old.

Both parties presented written submissions.

During sitting held on the 18th of May, 2023 the Immigration Appeals Board was authorised by the parties to proceed to give judgement.

Facts of the case

Appellant arrived in Malta illegally and upon arrival declared he was born on the 05th of August, 2001, later changing it to the 10th of May, 2006. An age assessment report was carried out by AWAS which found that appellant is an adult. His physical appearance suggests he is over the age of 18, he has a fully developed body structure, thin small frame, shaved facial hair, and a visible adams' apple.

Considerations

Several board sittings were held during which appellant was legally represented. A legal guardian and social worker were also appointed to represent appellant from the instance appellant claimed to be a minor. Various documents were presented by appellant's legal representative.

Both parties presented written submissions. In his submissions appellant invited this Board to uphold appellants appeal and apply the best evidence rule as set out in Article 559 of Chapter 12 of the Laws of Malta and accept birth certificate presented by appellant.

Appeals court in its Inferior jurisdiction, application number 478/2000/1, judgement dated 17th March, 2003, in the names **Enrico Camilleri vs Martin Borg** – *“Il-gudikant, fil-kamp civili, ghandu jiddeciedi fuq il-provi li jkollu quddiemu, meta dawn jinducu fih dik ic-certezza morali li kull tribunal ghandu jfittex, u mhux fuq semplici possibilitajiet; imma dik ic-certezza morali hija bizzejjed, bhala li hija bazata fuq il-preponderanza tal-probabilitajiet”*.

Decide

With reference to the considerations above which emerged from evidence produced by appellant himself, the Immigration Appeals Board rejects appeal and finds that appellant failed to proof beyond doubt that he is not an adult. Documents presented confirm a different age to what is being claimed, confirming appellant to be an adult.

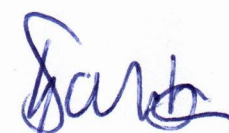
Copy of this judgement is to be served to the Principal Immigration Officer.



Dr Maria Cardona
Chairperson



Dr Alex Scerri Herrera
Board Member



Dr Gaynor Saliba
Board Member