



**Upper Tribunal  
(Immigration and Asylum Chamber)  
PA/00930/2016**

**Appeal Number:**

**THE IMMIGRATION ACTS**

**Heard at Glasgow  
Reasons Promulgated  
On 28<sup>th</sup> July 2017  
September 2017**

**Decision and  
On 7<sup>th</sup>**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE FARRELLY**

**Between**

**Mr MBR  
(ANONYMITY ORDER MADE)**

Appellant

**And**

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

Respondent

**Representation:**

For the Appellant: Loughran and Co, Solicitors  
For the Respondent: Mr S.Kotas, Home Office Presenting Officer

**DETERMINATION AND REASONS**

Introduction

1. The appellant is an Iraqi Kurd born on the 21<sup>st</sup> January 1995. He is a single man of the Sunni faith who lived in the city of Mosul with his mother and sister. His account was that he had two older brothers who in 2004 were killed, aged 14 and 19, when a bomb exploded in the market. Because of this, his mother was very protective and would not let him attend school or leave the precincts of his home. Consequently, he was uneducated and has never worked.

2. On 6 September 2014 ISIS invaded his city. His father owned a digger and later ISIS forced him to dig trenches for them. He did this for three weeks and then when he refused to work further they killed him.
3. Members of ISIS approached the appellant and told him to dig trenches using his father's digger. The appellant did not know how to use the machine and made a mess of the work. Meantime, Peshmerga troops fired shots at him on the digger. The appellant was then beaten by members of ISIS and brought home. Fearful of what they would do to him he left his home country with the help of an agent.
4. When he was screened he pleaded ignorance as to his family's whereabouts. He said he had no documentation. He also claimed he only spoke Kurdish and because of his sheltered life was uneducated and unused to work.
5. The respondent refused his claim for protection. It was accepted he was a Kurd from Mosul. His account of being forced to drive a digger was not accepted. Even if true, he did not have a profile likely to attract ongoing pursuit by ISIS or the Peshmerga. Because of events in his country he could not be returned to Mosul. However, the respondent felt he could safely live in the KRG and be returned there via Baghdad.
6. His appeal was heard by Judge of the First-tier Tribunal D.H.Clapham and was dismissed in a decision promulgated on 2<sup>nd</sup> February 2017. She accepted as possible his brothers had been killed in an explosion and his father subsequently killed as he claimed. His account of the index incident was not accepted. The judge concluded he could be returned to Iraq albeit not to Mosul as it was a contested area. Whilst he claimed to have no documentation the judge concluded that whilst difficult it would not be impossible for him to obtain a replacement CSID and his family could assist him in seeking documentation. There were flights to Baghdad from the United Kingdom and from there he could travel onwards to the I KR by plane. She described him as a fit, resourceful man.
7. Permission was granted on the basis it was arguable the judge erred in law in relation to his obtaining documentation to facilitate return. It was arguable the judge failed to have regard to the factors set out in AA Iraq [2015 ]UK UT 544 concerning relocation to Baghdad and onwards to the IKR. These include the availability of a CSID; the ability to speak Arabic; and family support.
8. A hearing took place in the Upper Tribunal and in a decision promulgated on 14 June 2017 Deputy Upper Tribunal Judge IAM Murray found a material error of law. The matter was to be relisted for a second stage Upper Tribunal hearing in relation to whether it

would be unreasonable or unduly harsh for the appellant to relocate internally to Baghdad or to the IKR.

9. At hearing, the appellant's representative confirmed the only issue was the question of internal relocation. The appellant's claim was that he was uneducated; had never worked; and spoke no Arabic. The judge had accepted his two brothers and his father could have been killed. He had said his mother would not allow him to work as she was afraid something would happen to him. It was submitted that in order for him to travel to Baghdad he would require identity documents by way of either a passport or a laissez-passer. The appellant only had his mother and sister. His sister was only 15 years of age. There was no evidence of any other support mechanism. Reference is made to the difficult conditions for many people in the I KR.
10. Mr Kotas submitted his credibility was in issue. Whilst the judge had accepted his account of having only his mother for support and his father and brothers may have been killed, he was not found to be credible in respect of the index event. Consequently, his claim about other events was suspect. It was pointed out for instance he used a mobile telephone although he claims to be illiterate.

### Consideration

11. The refusal contemplates the I KR as a final destination for the appellant. It is not in dispute he cannot return to his home city given the country situation. In considering relocation elsewhere guidance can be found not only in the extant country guidance case of AA (article 15 (c)) Iraq CG 2015 UK UT00544 but also the Court of Appeal's consideration of that decision, AA(Iraq )v SSHD[2017] EWCA. There is also the judicial review decision of R (on the application of H)-v- SSHD [2017] UKUT 001199. In July the respondent also published her guidance to caseworkers on the question of return.
12. In his substantive interview the appellant repeatedly claimed ignorance when asked about matters relevant to his return. No documentation was produced. At 4.4 of his screening he said he didn't know where his mother was. In his substantive interview at question 9 he said he only had his mother and sister left in Iraq. He said they lived in the city but he was kept to his own area by his mother. He claimed he was uneducated. He was asked if his brothers went to school and he said he did not remember much of them. It was put to him that he was 9 when he said they were killed and he should have some recollection. His response was he couldn't remember but they might have. He was able to name the school. At question 36 he was asked where his mother was born. He said he didn't know and he couldn't remember. He was asked what he did if

he didn't go to school. He said he stayed indoors. He said his sister did the same. He denied ever working. At question 54 he was asked what he did as a teenager. His answer was he would sometime kick a ball with the local kids and played marbles.

13. It is my conclusion that he has adopted the strategy that his interests are best served by pleading ignorance to everything. The First-tier judge at paragraph 54 onwards did not find him credible on his core claim. She concluded that he had family who could assist him in the redocumentation process. I reach the same conclusion. I do not accept as credible that he led the extreme sheltered life he claimed. I find it likely he has family and friends in Iraq who can help. It is my conclusion that he can give enough personal details to Iraqi officials to establish his identity. I do not accept this claim he does not know where his mother is. He made this claim when, on his account, he had only been away from home for just over a fortnight. The country information indicates that in Iraq the procedure is that there is a family book recording the different members. His mother should have this. This would help identify the appellant. He was able to mention a friend of his father's who helped him depart.
14. It is my conclusion he is not the isolated individual he claims. Following from this, I conclude he would be able to obtain the necessary travel document. He could also obtain the CSID necessary to access services within the country.
15. He is not from the IKR. There are direct flights there from the United Kingdom but he would not be flown directly because he does not originate from there. Instead, he would be flown to Baghdad. The intention is that this would be a transitional move for onward travel within the country to the IKR. Travel to Baghdad by air is feasible. Should he have to remain there for any length of time then the country information indicates that he would not face a 15(c) risk there. The intention however is for this to be a point of transit.
16. The nature of a laissez-passer is that it is issued by the Iraqi authorities here to facilitate return. If this is taken from the appellant on arrival at Baghdad airport the country guidance case is silent as to the need for documentation for onward travel within the country. I have not been referred to any evidence that further documentation is required for travel within Iraq. The onus is not on the respondent to prove in each case what documents are required to board an internal flight from Baghdad to the IKR. It is my conclusion that the appellant could safely fly from Baghdad to Erbil.
17. The country guidance case indicates he would be given access to the IKR for a limited period. This would give him an opportunity to establish himself. I find he has not demonstrated he would be unable to do so. Given I do not accept he is a credible witness it is not known what his work experience is or his abilities. He claims he does not speak Arabic. This may be true. However, he was astute

enough to make the arduous journey from Iraq across Europe unaccompanied and to adapt to his surroundings. He claimed never to have worked but I do not find it credible that he has lived idly all this time, leaving his mother to support him. On his given date of birth he is now 23 years of age. There is no evidence of a physical or mental impairment. He speaks Kurdish. I do not accept his claim that he has no family or friends in Iraq who could help. There will also be a financial package on return to help him. Consequently, my conclusion is that to expect the appellant to relocate to the IKR is feasible and is not unduly harsh.

Decision

The appeal is dismissed

Signed

Deputy Upper Tribunal Judge Farrelly  
September 2017

6<sup>th</sup>

