



**Upper Tribunal
(Immigration and Asylum Chamber)
PA/04024/2015**

Appeal Number:

THE IMMIGRATION ACTS

**Heard at Manchester
On December 11, 2017**

**Decision & Reasons
Promulgated
On December 15, 2015**

Before

DEPUTY UPPER TRIBUNAL JUDGE ALIS

Between

**MR S S
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Howard (Legal Representative)

For the Respondent: Mr McVeety, Senior Home Office Presenting Officer

DECISION AND REASONS

1. I make an anonymity direction.
2. The appellant is an Iraqi national. The appellant entered the United Kingdom on August 18, 2015 and claimed asylum on August 20, 2015. The respondent refused his protection claim on December 10, 2015 under paragraphs 336 and 339F HC 395.
3. The appellant lodged grounds of appeal on December 22, 2015 under Section 82(1) of the Nationality, Immigration and Asylum Act 2002. His

appeal came before Judge of the First-tier Tribunal Ransley (hereinafter called "the Judge") on April 4, 2017 and in a decision promulgated on April 13, 2017 the Judge refused his appeal on all grounds.

4. The appellant appealed the decision on April 24, 2017. Permission to appeal was granted on one ground only by Judge of the First-tier Tribunal Kelly on August 22, 2017. The respondent lodged a Rule 24 response dated September 4, 2017 in which she argues there was no error in law.
5. The matter came before me on the above date and the parties were represented as set out above.

SUBMISSIONS

6. Mr Howard submitted the Judge had erred by failing to apply the guidance set out in AA (Article 15(c)) Iraq CG [2015] UKUT 544 (IAC) and failed to properly consider whether internal relocation to Baghdad or the IKR was unduly harsh or unreasonable or both. As the appellant had not been pre-cleared he would be unable to fly direct to the IKR and the Judge had failed to address how the appellant would be expected to travel from Baghdad to the IKR. There was evidence the appellant suffered post traumatic stress disorder and this should have been considered as part of the deliberations.
7. Mr McVeety relied on the Rule 24 statement and submitted the problem for the appellant was two-fold namely (a) the Judge had refused his protection claim and found his claim lacked credibility and (b) he found he had family to whom he could turn to in the IKR. He would be returned to Baghdad airport but would, in the circumstances, be able to have arranged a connecting flight to Erbil. As he would never leave the airport it could not be said it would be unduly harsh or unreasonable.
8. Mr Howard responded to these submissions and argued that when considering the case it should be noted that each case was fact sensitive and as he suffered with PTSD this would affect his situation. The court should also consider AA (Iraq) v SSHD [2017] EWCA Civ 924 as this post-dated the First-tier Tribunal hearing.
9. Having heard submissions I reserved my decision but indicated that if there was an error in law then I would remake the decision by considering the relevant information including an updated report from the hospital.

FINDINGS ON THE ERROR IN LAW

10. The Judge heard in detail the appellant's appeal and her findings remain unchallenged in the sense permission to appeal those reasons had been refused. The issue facing me was a narrow issue namely whether the appellant could be returned and if so where would he be returned to. If the Judge had found a permanent return to Baghdad was possible then I would have had to consider the Court of Appeal's decision in AA [2017] as well as the country guidance decision of AA [2015] and BA (Returns to Baghdad) CG [2017] UKUT 00018 (IAC).

11. Two issues were raised in oral submissions. It was firstly argued the fact the appellant suffered from PTSD was something the Judge should have had regard to and the second issue was the Judge's whole approach to internal relocation.
12. At the hearing before me, Mr McVeety agreed that the appellant would not be pre-screened but he argued that the considerations in AA [2015]/AA [2017] would have little relevance because the appellant was not expected to relocate to Baghdad but simply to fly into that airport and then onto Erbil.
13. There were a number of letters within the appellant's original bundle. These included:
 - (a) A letter dated January 11, 2016 from Dr Farrington employed by Greater Manchester West Mental Health NHS Foundation Trust referred to the appellant suffering from severe anxiety and a longstanding mental illness which meant the appellant found it difficult to concentrate and engage with the Trust.
 - (b) A medical report dated October 12, 2016 was from a mental health nurse employed by Greater Manchester West Mental Health NHS Foundation Trust. She was the manager of the Asylum Seeker Mental Health Consultation Service and only met the appellant on one occasion. There was little information in that letter that would have assisted the Judge because the author of the letter did not make any findings about the appellant.
 - (c) A letter dated November 16, 2016 from Dr Farrington referred to the appellant's account of his symptoms and based on these symptoms Dr Farrington diagnosed PTSD.
14. The Judge clearly engaged with the medical evidence as she discussed the medical evidence between [65] and [70] of her decision albeit under the heading "Article 8". The grounds of appeal did not raise PTSD as part of any defective assessment and it may well be that Mr Howard has sought to bolster his submissions by linking the appellant's current situation with the issue of internal relocation. The Judge's findings on the appellant's medical problems was addressed by the Judge who made the point that the report was dated and there was no recent evidence to support the appellant's claim. In the circumstances I do not find the appellant's medical situation would have added anything to the Judge's assessment under article 15(c).
15. The remaining issue was whether it was unduly harsh or unreasonable or both to require the appellant to relocate to either Baghdad or the IKR. Paragraphs [58] to [62] address this very issue. The Judge had rejected the appellant's claim that he had problems with his family and made a finding at [61] that he had both his step-mother and her brothers in the IKR.
16. The Judge was therefore considering a situation whereby the appellant would be able to return to Iraq and stay with family in the IKR. He had

family to turn to provide support and family with whom he could liaise with prior to returning. Whilst he would be returned via Baghdad it is clear the Judge did not believe he would be staying in Baghdad and consequently the problems considered by both the Upper Tribunal and the Court of Appeal in AA would not affect him because he would not be leaving the airport.

17. In the circumstances, whilst I note what the case law states I am satisfied the Judge's approach to the appellant's return cannot be criticised.

DECISION

18. The making of the decision of the First-tier Tribunal did not involve the making of an error on a point of law. I uphold the decision.

Signed

Date 11.12.2017



Deputy Upper Tribunal Judge Alis

TO THE RESPONDENT
FEE AWARD

I make no fee award as the appeal was dismissed.

Signed

Date 11.12.2017



Deputy Upper Tribunal Judge Alis