



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: PA/04166/2015

THE IMMIGRATION ACTS

Heard at Glasgow
On 9th May 2017

Decision & Reasons Promulgated
On 13th June 2017

Before

DEPUTY UPPER TRIBUNAL JUDGE I A M MURRAY

Between

[A H]

~~(ANONYMITY DIRECTION NOT MADE)~~

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms McCallum, Latta & Co Solicitors, Glasgow
Mr Winter, Counsel

For the Respondent: Mr Matthews, Home Office Presenting Officer

DECISION AND REASONS

1. The Appellant identifies himself as a citizen of Iraq born on [] 1994. He appealed against the decision of the Respondent dated 14th December 2015 refusing his asylum claim, his claim on humanitarian protection grounds and his human rights claim. The appeal was heard by Judge of the First-tier Tribunal Bradshaw on 30th August 2016 and dismissed on all grounds.
2. An application for permission to appeal was made and permission to appeal was granted by Upper Tribunal Judge McWilliam in January 2017. The permission states that the appeal essentially turns on credibility and the judge made extensive findings in respect of this. Because there was a lack of credibility the judge concluded that the Appellant's evidence in respect of the documentation provided was not acceptable

and he concluded that the Appellant, a Kurd from Kirkuk could safely return to the IKR. The permission states that it is arguable that the judge should then have considered the Appellant's journey from Baghdad to the IKR. Permission was granted on all grounds.

3. There is a Rule 24 response dated 18th January 2017. This points out that it does not appear to have been argued before the judge that there was a risk to the Appellant in travelling to the IKR as a Kurd per se, nor was there any indication in the grounds as to what evidence would be required to support such an assertion.
4. On 9th February 2017 the Appellant appeared before me and I found that there was a material error of law in the First-tier Tribunal's decision on humanitarian protection grounds in a decision promulgated on 20 February 2017.
5. The Appellant might have to go overland to Erbil from Baghdad. The First-tier Tribunal Judge did not assess whether this would engage Article 3 of ECHR or paragraph 15(c) of the Qualification Directive. I found that more facts would have to be put before the Tribunal to enable this appeal to be resolved and further evidence about this particular issue would require to be provided by both parties. The findings of fact in the First-tier Tribunal's decision were not challenged, including the judge's finding that the Appellant had been untruthful in his evidence. I therefore directed that the judge's decision should stand relating to these issues of fact and the issue which now has to be considered is whether, based on the facts of this case, together with any additional facts and evidence which can be provided by both parties, this Appellant can return to Iraq and travel to the IKR from Baghdad. I asked for arguments to be put forward by both parties for the Upper Tribunal's consideration and adjourned the case for a second stage hearing.
6. This is that second stage hearing.

The Hearing

7. Counsel for the Appellant submitted that based on this evidence now provided by the respondent, any submissions he might make about the Appellant's travel to Erbil from Baghdad were unlikely to help the Appellant's claim.
8. The Presenting Officer referred to me to item 7 in the Respondent's new bundle which is a copy of flight details from Baghdad International Airport to Erbil International Airport. The cost of this flight is US\$89. He submitted that in Dr Fatah's report, which the Appellant is relying on, he states that the cost of this flight would be prohibitive. The Presenting Officer explained that he had made a random search of flights and he produced flight details for a flight from Baghdad to Erbil on Tuesday 9th May 2017. He submitted that this applicant, if he accesses assisted voluntary return, will receive £2,000 from the UK government. I was referred to number 6 of the same bundle. This confirms that if the appellant applies for assisted voluntary return he will get up to £2,000 and the Presenting Officer submitted that based on this the applicant will have no problem travelling from Baghdad to Erbil.

9. He submitted that the Appellant's evidence is that he is from a wealthy family who paid \$20,000 to transport the Appellant from Iraq to the United Kingdom. He submitted that based on this evidence there is no error of law in the First-tier Tribunal's decision and this Appellant can return to Iraq and travel to the IKR.
10. Counsel accepted the position.

Notice of Decision

There is no material error of law in the judge's decision promulgated on 20th October 2016. The First-tier Tribunal's decision shall stand and this Appellant's appeal for humanitarian protection is dismissed.

No anonymity direction is made.

Signed

Date 15 May 2017

Deputy Upper Tribunal Judge I A M Murray