



**Upper Tribunal  
(Immigration and Asylum Chamber)**

Appeal Number: PA/01624/2017

**THE IMMIGRATION ACTS**

**Heard at Field House**

**On 15<sup>th</sup> January 2018**

**Decision & Reasons  
Promulgated**

**On 06<sup>th</sup> February 2018**

**Before**

**UPPER TRIBUNAL JUDGE MARTIN**

**Between**

**MMK  
(ANONYMITY DIRECTION MADE)**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: Ms M Knorr (instructed by Legal Rights Partnership)  
For the Respondent: Ms A Everett (Senior Home Office Presenting Officer)

**DECISION AND REASONS**

1. This is an application to the Upper Tribunal, with permission, by the Appellant who is a citizen of Iraq born on [ ] 1992. He appealed the Secretary of State's decision to refuse his protection claim and his appeal

was heard at Newport by First-tier Tribunal Judge Eames on 27<sup>th</sup> April 2017.

2. In a Decision and Reasons promulgated on 10<sup>th</sup> May 2017 Judge Eames dismissed the humanitarian protection claim but allowed the appeal on Article 8 grounds. The decision is a very careful recitation of what the claim was about, which was that the Appellant as a Shia Muslim had suffered attacks in his home area from Sunni militia and that his sister, with whom he is very close, was at risk of being forced into a marriage. He and his sister both fled to the UK and both have mental health problems. In the case of the Appellant he has PTSD.
3. The sister's appeal had previously been allowed on the basis of the risk to her of forced marriage and due to her religion. The factual basis of the claim was accepted in her appeal and also by Judge Eames. The Judge accepted that there was a risk of persecution in this Appellant's home area, having accepted that he and his sister had previously been targeted by the militia. The Judge then went on to consider whether internal relocation was possible and found that it was. He thus refused the protection claim.
4. However, when considering the Appellant's relationship with his sister he found that that relationship was sufficiently strong with a mutual dependency to amount to family life for the purposes of Article 8 of the ECHR and allowed the appeal on Article 8 grounds.
5. The challenge to the First-tier Tribunal's decision is on the basis of the findings in respect to internal relocation. Part of the evidence that was before the Judge was a medical report by Dr Fairweather, a Consultant Psychiatrist, dated 20<sup>th</sup> April 2017. The Judge accepted that evidence was entitled to be given weighty consideration and nothing in the report was rejected.
6. The Judge, when considering internal relocation at paragraphs 72 and 73, having set out the various relevant pieces of law, assessed the Appellant's individual characteristics as required and concluded that they were not characteristics such as to put him at real risk of Article 15(c) harm. He found also that he would not be at risk of persecution due to his religion either outside the areas concerned. The Judge went on to say that it was not argued that internal relocation would be unduly harsh and found that the Appellant would be a Shia in a Shia country; would face the same problems finding work and accommodation that others would face; albeit he had no family sponsorship, but those factors did not amount to undue hardship.
7. However, in that analysis, in an otherwise very careful and reasoned decision, the Judge did not take into account the medical evidence which he had previously found worthy of weighty consideration. That medical evidence included the doctor's opinion as to the effect on the Appellant of return to Iraq. It opined that there would be a deterioration in the

Appellant's mental state and an increased suicide risk. There would be a lack of family support and the loss of the relationship with his sister, his only meaningful family relationship and with whom there was mutual dependency. The doctor also opined that as a result of his mental state he would be unable to obtain employment.

8. I find, without any meaningful challenge from the Secretary of State, that had those matters properly been factored into the analysis of internal relocation it would have tipped the balance to a finding that it would be unduly harsh to expect that of this Appellant. This is not a case where the Appellant is a fit and healthy young man who could make his way in his home country in another area.
9. The Judge having found that the Appellant would be at risk of persecution on account of his Shia faith in his home area, it being unduly harsh to expect him to relocate, means that he is entitled to refugee status. I therefore allow the appeal to the Upper Tribunal to the extent that I set aside the findings only on internal relocation and I re-decide it based on the other findings which are clearly sustainable. I re-decide it on the basis that he is entitled to asylum for the reasons that I have given.

**Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008**

Unless and until a Tribunal or court directs otherwise, the Appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify him or any member of their family. This direction applies both to the Appellant and to the Respondent. Failure to comply with this direction could lead to contempt of court proceedings.

Signed

Date 2<sup>nd</sup> February 2018

Upper Tribunal Judge Martin