



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: PA/02432/2018

THE IMMIGRATION ACTS

Heard at Field House
On 9th July 2018

Decision & Reasons Promulgated
On 16th July 2018

Before

UPPER TRIBUNAL JUDGE KING TD

Between

AMNA [S]

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr M Aslam of Counsel, instructed by Aman Solicitors Advocates
(London) Ltd

For the Respondent: Mr E Tufan, Home Office Presenting Officer

DECISION AND REASONS

1. The appellant is a citizen of Iraq who sought to claim asylum and/or humanitarian protection on 12th June 2017. That was refused by the respondent in the decision letter dated 6th February 2018.
2. The appellant sought to appeal against that decision, which appeal came before First-tier Tribunal Judge Geraint Jones QC on 22nd March 2018.

3. It was the claim of the appellant that she and her husband were in danger from a militia group in Iraq. She recited a number of occasions when members of that group had been to addresses associated with her and her husband, including her mother's home, her parents-in-law's home and the matrimonial home. On one occasion a threatening letter had been received but no copy of the said letter had been produced. Although documents were produced it would seem that the Judge was unable to find any police report.
4. The Judge for reasons set out found the appellant's case to lack credibility.
5. The appellant sought to appeal against that decision. Leave to do so was granted to the Upper Tribunal. Thus the matter comes before me to determine the issues.
6. The central document in support of her claim for protection is a letter from the Police Directorate of Baghdad detailing the threatening letter received from the Shia militia and the raids on the appellant's home in Iraq. That document is set out at pages 18 to 19 of the appellant's bundle and D1 to D2 of the respondent's bundle.
7. In those circumstances it is surprising that the Judge was unable to locate it and certainly unable to evaluate it. Not only does it appear in the respondent's bundle as indicated but also in the appellant's bundle according to the index and it is there.
8. The respondent in the Rule 24 response dated 28th June 2018 accepts that the First-tier Tribunal Judge had erred in completely ignoring the document and conceded that there was a possibility that the outcome might have been different had such a document been considered. It was accepted therefore by the respondent that there was a material error of law in the approach taken by the Judge and therefore he does not seek to oppose the application for challenge that is made that the decision be set aside to be remade.
9. A further concern that was expressed in terms of the grounds was the general attitude towards the matter as exhibited by the tone of the determination, which gave strongly the flavour of a Judge determined to give no credit whatsoever for anything the appellant had to say. There was, however, no evidence of bias and nothing has been done to invite comment from the Judge on this matter. However, it is important that justice be seen to be done.
10. In all the circumstances it is arguable that the appellant has not had a fair hearing and that important material presented on her behalf has not been considered properly or at all. In those circumstances the appeal to the Upper Tribunal is allowed. The decision of the First-tier Tribunal Judge shall be set aside to be remade.
11. Having regard to the Senior President's Practice Direction, it seems that the proper course, bearing mind that there would have to be a review of all the evidence and a hearing of evidence again relevant to the issue of credibility, is that the matter be remitted to the First-tier Tribunal for a full rehearing.

Decision

The First-tier Tribunal decision is set aside to be remade by way of a full rehearing in the First-tier Tribunal.

No anonymity direction is made.

Signed

A handwritten signature in black ink, appearing to read "P. King", is enclosed within a thin black rectangular border. The signature is written in a cursive style.

Date 12 July 2018

Upper Tribunal Judge King TD