



**Upper Tribunal
(Immigration and Asylum Chamber)**
PA/03599/2018

Appeal Number:

THE IMMIGRATION ACTS

Heard at North Shields

**Determination & Reasons
Promulgated**

On 9 November 2018

On 16 November 2018

**Prepared on 9 November
2018**

Before

DEPUTY UPPER TRIBUNAL JUDGE JM HOLMES

Between

**Y. M.
(ANONYMITY DIRECTION MADE)**

Appellant

And

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms Brakaj, Iris Law Firm

For the Respondent: Mr McVeety, Home Office Presenting Officer

DECISION AND REASONS

1. The Appellant, a citizen of Iraq, entered the United Kingdom illegally, and claimed asylum on 7 September

2017 saying that he faced a real risk of harm at the hands of non state agents through “honour based violence” as a result of the extra marital relationship he claimed to have enjoyed with M, a resident of Suleymanyeh. He accepted that he originated from the KRG, but said that the risk of harm he faced was not limited to his home area of Suleymanyeh, but extended across the whole of the KRG. He also denied the ability to relocate to Baghdad to avoid that risk.

2. The Appellant’s protection claim was refused by the Respondent on 2 March 2018. His appeal against that decision was heard and dismissed by First Tier Tribunal Judge Cope in a decision promulgated on 29 May 2018, in the course of which the Judge rejected as untrue the Appellant’s account of an extra marital affair with M. He concluded that the Appellant could return to the KRG as a returning former resident, and enjoy the support of his family and friends, resuming in safety the lifestyle he had previously had.
3. The Appellant sought permission to appeal from the FtT on grounds that Ms Brakaj did not draft. She accepts that they should be read as asserting only one complaint, namely that the Judge made inconsistent findings of fact in the course of his decision. That was certainly how the grounds were characterised in the course of the grant of permission to appeal made by First tier Tribunal Judge Adio on 20 June 2018, who considered the complaint to be arguable.
4. No Rule 24 Notice has been lodged in response to the grant of permission to appeal. Neither party has applied pursuant to Rule 15(2A) for permission to rely upon further evidence. Thus the matter came before me.

The complaint

5. When the appeal was called on for hearing Ms Brakaj noted that the Judge had accepted that “*aspects of the Appellant’s case*” had been given by him consistently [24], and that “*some of what he had to say about family honour in Iraq, and the KRI in particular, is not inconsistent with the background evidence*” [25]. She argued that the Judge had thereby not been simply noting the context in which he was to consider the credibility of the Appellant’s account, but that having expressed himself thus, it was not open to the Judge to go on to reject the core of that account as untrue, as he did.
6. That argument was not one that was advanced with any vigour, and as Ms Brakaj accepted, it failed to engage

with the contradictions and inconsistencies in the Appellant's evidence that the Judge quite properly identified and explained during the course of his decision.

7. In my judgement it is clear that the draftsman of the grounds misread the decision. Upon any fair reading of the decision it is clear that the Judge was at pains to take as his starting point the fact that some extra marital relationships would undoubtedly take place in the KRG, and that some of those relationships would result in "honour based violence" towards one or both of the couple concerned, generally from members of the woman's family.
8. That starting point, or context, did not however mean that upon the applicable low standard of proof the Judge was bound to accept as truthful the evidence of the Appellant as one who claimed to have undertaken an extra marital relationship. As Ms Brakaj accepts, the Judge clearly undertook a thorough and painstaking analysis of the evidence that was placed before him, and concluded that the Appellant's evidence was untrue. It was in my judgement certainly open to the Judge to reach that conclusion on the basis of the Appellant's evidence, and in my judgement he gave more than adequate reasons for his conclusion that the Appellant had not told the truth; MD (Turkey) [2017] EWCA Civ 1958.
9. In the circumstances, I am satisfied that the Judge did not err in law in concluding that he should reject as untrue the Appellant's claim to be at risk of violence from members of M's family should he return to his home area of Suleymanyeh.
10. The focus of the Appellant's challenge was entirely upon that adverse finding of fact. However for the avoidance of any doubt, I would record that since the Appellant did not face the risk he had described, and since he had no dispute with his own family, the Judge's conclusion that he could be returned to Iraq by air to Baghdad airport with identity card, CSID and passport was consistent with the country guidance to be found in AA (Iraq) [2017] EWCA Civ 944, and AAH (Iraqi Kurds - internal relocation) Iraq CG [2018] UKUT 212 (IAC). From Baghdad airport he could take an internal flight to Suleymanyeh, and resume with the support of his family the life he had decided to abandon when he chose to emigrate from Iraq.
11. Accordingly, and notwithstanding the terms in which permission to appeal was granted, the grounds fail to disclose any material error of law in the approach taken

by the Judge to the appeal that requires his decision to be set aside and remade.

DECISION

The Determination of the First Tier Tribunal which was promulgated on 29 May 2018 contained no material error of law in the decision to dismiss the Appellant's appeal which requires that decision to be set aside and remade, and it is accordingly confirmed.

Direction regarding anonymity - Rule 14 Tribunal Procedure (Upper Tribunal) Rules 2008

Unless and until the Tribunal directs otherwise the Appellant is granted anonymity throughout these proceedings. No report of these proceedings shall directly or indirectly identify him. This direction applies both to the Appellant and to the Respondent. Failure to comply with this direction could lead to proceedings being brought for contempt of court.

Signed

Deputy Upper Tribunal Judge JM Holmes

A handwritten signature in black ink, appearing to be 'JM Holmes', written in a cursive style.

Dated 9 November 2018