



**Upper Tribunal
(Immigration and Asylum Chamber)
PA/07291/2016**

Appeal Number:

THE IMMIGRATION ACTS

Heard at Columbus House, Newport

**Decision &
Promulgated**

Reasons

On 26 February 2018

On 20 March 2018

Before

DEPUTY UPPER TRIBUNAL JUDGE MCGEACHY

Between

**KJN
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr S Sidhu of Messrs Harbans Singh & Co

For the Respondent: Mr I Richards, Senior Home Office Presenting Officer

DECISION AND DIRECTIONS

1. The appellant appeals with permission against a decision of Judge of the First-tier Tribunal Ghani, who in a determination promulgated on 19 May 2017, dismissed the appeal of the appellant against a decision of the Secretary of State to refuse to grant asylum.
2. The appellant's claim was based on a fear of ISIS because he asserted that he had injured a member of ISIS when he was working as a prison guard. The appellant had stated that he had been born and had lived in Kirkuk and that he had worked as a prison guard in Badush and Chamchamal between January 2011 and October 2015. It was accepted by the

respondent that he had worked in those prisons. The judge did not find the appellant's claim to be credible and that issue was not one which was before me.

3. The judge considered whether or not the appellant would be able to relocate either to Baghdad or to the IKR. In paragraph 27 of the determination he set out the submissions made to him but it is unclear from the determination what conclusions the judge came to with regard to the issue of relocation either to Baghdad or to the IKR. It was accepted by Mr Richards that that was a material error of law in the judge's determination.
4. The fact that the judge did not find that the appellant's claim was credible was not an issue before me. The sole issue was the fact that there had been no clear finding on the area to which the appellant could safely be returned. It was accepted by both representatives that that exercise needed to be carried out. There was also an issue of the exact chronology of the appellant's movements between 2011 and his departure for Britain. In that regard Mr Sidhu undertook to take further instructions from the appellant as there was a uncertainty as to whether or not he had moved from Kirkuk to Chamchamal in 2011 or later or in 2015.
5. There needs to be a finding of fact on this point. I consider therefore that it would be appropriate for this appeal to be remitted on the sole issue of the area to which the appellant can be returned (if any), such issue to be determined before a Judge of the First-tier Tribunal.


Notice of Decision and Directions

This appeal is remitted to the First-tier Tribunal on the sole issue set out in paragraph 4 above.

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 his 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:
March 2018



Date: 17

Deputy Upper Tribunal Judge McGeachy