



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: PA/09126/2016

**THE IMMIGRATION ACTS**

Heard at Birmingham  
On 14<sup>th</sup> August 2018

Decision & Reasons Promulgated  
On 23<sup>rd</sup> August 2018

Before

UPPER TRIBUNAL JUDGE COKER

Between

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

And

ALI [A]

Respondent

**Representation:**

For the Appellant: Ms H Aboni, Senior Home Office Presenting Officer  
For the Respondent: Mr A Khan, Legal Representative, Fountain solicitors

**DETERMINATION AND REASONS**

1. First-tier Tribunal Judge A J Parker, in a decision promulgated on 26 September 2017, allowed Mr [A]'s appeal against the decision of the SSHD to refuse his international protection claim. The First-tier Tribunal Judge found that the appellant was an undocumented stateless Bidoon who was at real risk of persecution if returned to Kuwait. The SSHD had submitted that Mr [A] was not an undocumented stateless Bidoon but was an Iraqi national.
2. The SSHD sought and was granted permission to appeal on the grounds that it was arguable:

“ ...

2. A key credibility issue arose in respect of [Mr [A]'s] nationality. It was noted [19] that [Mr [A]] was believed to be an Iraqi national and, [20] that he had applied in Baghdad for a US visa.
3. It is submitted that the Judge fails to resolve this key issue. In the alternative, he gives insufficient reasons for his conclusion. He finds [33] that the fact that the appellant had applied for a US visa (as an Iraqi national) 'damages [his] credibility but is not determinative.' He concludes [41] that [Mr [A]] has told the truth about his claim, but it is not clear what the truth is about [Mr [A]'s] application for a US visa as an Iraqi national. Nor is it clear why, if [Mr [A]] has told the truth, his credibility is damaged.

...”

3. The grounds do not accurately reflect the First-tier Tribunal judge's findings. The references to [19] and [20] in the grounds seeking permission to appeal are not findings by the First-tier Tribunal judge but a record of the submissions made by the Presenting Officer to the judge. The reference to the damaged credibility in [33] is in the context of consideration of Mr [A]'s account in the context of s8 Asylum and Immigration (Treatment of Claimants etc) Act 2004.
4. The First-tier Tribunal judge sets out in detail the oral evidence of the witnesses (which includes Mr [A]'s brother who has been recognised as a refugee as an undocumented stateless Bidoon and other witnesses similarly recognised. He acknowledged the possible explanations given for the trip to Baghdad and the failure of the SSHD to produce the documentary evidence he relied upon to support the contention that Mr [A] had made an application for a US visa in a different name and as an Iraqi national. The judge referred to the background material and the country guidance. The judge considered the evidence in the round and although accepting that there was some damage to Mr [A]'s credibility, taking the evidence as a whole, he found him to have told the truth about the basis of his claim to fear persecution as an undocumented stateless Bidoon.
5. The challenge mounted by the SSHD is a disagreement with the reasoned findings by the judge that Mr [A] is not an Iraqi national. The First-tier Tribunal judge has given adequate reasoned findings for the conclusion reached, such conclusion being neither perverse, irrational or infected by a material error of law.
6. Ms Aboni confirmed that there was no other challenge to the decision of the First-tier Tribunal decision. She confirmed that if the finding that Mr [A] was not an Iraqi national was not infected by a material error of law, then the decision of the First-tier Tribunal judge allowing the appeal must stand.

Conclusions:

The making of the decision of the First-tier Tribunal did not involve the making of an error on a point of law. I do not set aside the decision. The decision of the First-tier Tribunal stands.



Upper Tribunal Judge Coker

Date 15<sup>th</sup> August 2018