



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

Appeal Number: PA/10025/2016

THE IMMIGRATION ACTS

**Heard at Field House
On 16 November 2017**

**Decision & Reasons
Promulgated
On 23 February 2018**

Before

UPPER TRIBUNAL JUDGE ALLEN

Between

**[I B]
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms A Nizani, Counsel, instructed by Davjunnell Solicitors
For the Respondent: Mr N Bramble, Home Office Presenting Officer

DECISION AND REASONS

1. This is an appeal by the appellant, [IB], against the decision of the Secretary of State on 7 September 2016. There was another refusal on 10 January 2017 refusing his application for international protection.
2. I do not think that I need to go into a great deal of detail in light of Mr Bramble's very helpful and wise submissions in relation to the judge's decision. There is the Rule 24 response. Mr Bramble makes the point though that that is an example of where there are flaws of the kind which have already been helpfully identified by Ms Nizani mirrored the point at

paragraph 4 about detention of family members for a few hours but that was in the context of leafleting.

3. In no particular order, I would say that the errors of law that have been identified in this case go to, substantively I think, a failure to consider the relevant country guidance in light of the appellant's history, which was accepted by the judge, of being in a rather unusual situation of being an Iranian citizen who has never lived in Iran since his family fled to Iraq on account of his father's fear of execution because of smuggling and other activities and the appellant would therefore, if he can obtain documentation to be returned, return as somebody with an adverse family history, as it might be described, a Kurd and somebody with no experience of living in Iran and those are relevant issues both to risk on return and also to a paragraph 276ADE issue.
4. So I am satisfied that there are material errors of law in the judge's decision and Mr Bramble says it simply deals too quickly and too cursorily with issues and there are specific matters relating to the appellant's profile and the kind I have just described which are clearly relevant to a proper evaluation of risk and the existence or otherwise of very significant obstacles to return.
5. Ms Nizani argued that it would be best for this to go back to the First-tier and Mr Bramble, I think, in the end was of the view that the whole matter really had to be redone in the First-tier but I think, as I said in the course of argument, that Ms Nizani is entitled to ring-fence the positive credibility findings as I find them to be at paragraph 9 of the judge's decision, "I accept his history as set out".
6. I understand Mr Bramble's point about that, given some of the flaws, as it were, in the judge's reasoning and his approach to the evidence along the way, that might be said to be questionable but it has not been formally challenged and I think it is sufficiently clearly a finding, as I say, of accepting the credibility of the claim but I think it is nevertheless a matter that perhaps is best dealt with going back to the First-tier with that finding protected because there is a good deal of decision-making to be made in relation to this case on the basis of those bare facts.
7. It may be that there can be clarification about the issue of other family members given the judge's assumption, in that regard, or perhaps it was more than that, the judge's remark that he must still have some relatives in the family area and there will need to be clarification of that and I think, given the amount of rethinking, admittedly though in the context of the positive credibility findings, I think that it is appropriate for this matter to go back to the First-tier for consideration and otherwise, as I say, the appeal is allowed to the extent of it being remitted on that basis.

Notice of Decision

The appeal is allowed.

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

Date 28 November 2017

Upper Tribunal Judge Allen