



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

Appeal Number PA/13586/2017

THE IMMIGRATION ACTS

Heard at Manchester Civil Justice
Centre
On 28th November 2018

Decision and Reasons Promulgated
On 30th November 2018

Before

DEPUTY UPPER TRIBUNAL JUDGE PARKES

Between

[S A]
(ANONYMITY DIRECTION NOT MADE)

Appellant

And

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

For the Appellant: Mr S Ell (Counsel, instructed by Duncan Lewis & Co,
Solicitors)

For the Respondent: Mr A Tan (Home Office Presenting Officer)

DETERMINATION AND REASONS

1. The Appellant is a citizen of Iraq and sought asylum on the basis of the claimed risk in his home area and his inability to relocate to the IKR or within Iraq itself. The application was refused, the Appellant's appeal was heard by First-tier Tribunal Judge Clarke at Nottingham on the 27th of July 2018 and dismissed for the reasons given in the decision promulgated on the 17th of August 2018.

2. The reasons for the decision are set out in paragraphs 13 to 31 of the decision. The Appellant had relied on an expert report from Ms Leitzer to which the Judge attached no great weight on the basis that AAH (Iraqi Kurds – internal relocation) (CG) [2018] UKUT212 (IAC) had been reported after the report and had not been considered by the report's writer. The Judge rejected the Appellant's claim to have been threatened by ISIS or that he would be at risk on return. There were inconsistencies that the Judge referred to in paragraphs 15 to 18.
3. The ground argue that the Appellant's case is that he is from a contested area and that aspect of the case and the effect it would have on the Appellant's ability to obtain documentation and to relocate had not been considered by the Judge. It is also argued that the Judge was wrong to place little weight on the expert's report, the contents of the report dealt with relevant issues and had referred to AAH and accordingly the principal reason for not relying on the report were erroneous.
4. The grounds were expanded on by Mr Ell in oral submissions and these are set out in the Record of Proceedings. Mr Tan accepted that the decision did not address contentious issues sufficiently and accepted that the appeal would have to be remitted to the First-tier Tribunal for re-hearing.
5. I agree with the grounds and with Mr Tan's concession. Whilst brevity is a virtue the reasons given do have address the relevant issues and be sufficient. In the decision the Judge wrongly rejected the expert's report and did not consider the nature of the Appellant's home area and the consequences for his return and ability to obtain documentation if he needed it.
6. Since then there has been a new CPIN on Iraq which updates the background information on which decisions are to be made. In the circumstances the appropriate course of action is to set the decision of Judge Clarke aside with no findings preserved. The appeal is remitted to the First-tier Tribunal for re-hearing on all issues, not before Judge Clarke.

CONCLUSIONS

The making of the decision of the First-tier Tribunal did involve the making of an error on a point of law.

I set aside the decision.

The appeal is remitted to the First-tier Tribunal for re-hearing on all matters, not to be heard by Judge S C Clarke

Anonymity

The First-tier Tribunal did not make an order for anonymity and I make no direction.

Fee Award

In setting the decision aside and remitting it to the First-tier Tribunal fees remain an issue to be decided dependent on the outcome of the remitted hearing.

Signed: 

Deputy Judge of the Upper Tribunal (IAC)

Dated: 28th November 2018

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