



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: PA/01603/2017

THE IMMIGRATION ACTS

Heard at Glasgow
On 21st June 2019

Decision & Reasons Promulgated
On 9th August 2019

Before

DEPUTY JUDGE UPPER TRIBUNAL FARRELLY

Between

MR R M
(ANONYMITY DIRECTION MADE)

Appellant

And

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the appellant: McGlashan McKay Solicitors.
For the respondent: Home Office Presenting Officer.

DECISION AND REASONS

Introduction

1. The appellant has been granted permission to appeal the decision of First-tier Tribunal Judge Mrs D H Clapham. In a decision promulgated on 4 February 2019 she dismissed the appellant's appeal against the respondent's refusal to grant him protection.

2. The appellant is a Kurdish national of Iraq. He made a claim for protection on 13 October 2015. He said he had been born on 27 February 1999 which would have made him a minor at the date of claim. The respondent was not satisfied as to his claimed age. He had submitted an age assessment report in support of this. However, the respondent obtained its own report, conducted through Glasgow Social Services and concluded the appellant was significantly over the age of 18. For convenience, they took his age as being two years older than that claimed.
3. His claim was that he was from a village in the Kirkuk Province where he lived with his mother and siblings. ISIS were fighting in the area. In February 2015 his family and others were taken captive by ISIS. He said that they were able to escape shortly afterwards. He went to stay with an uncle in Kirkuk for several months. It was then decided he should leave the country. He travelled through Turkey and onwards before arriving in the United Kingdom.
4. He claims to still fear ISIS. He said since arriving he was able to make contact with his uncle who told him his family were safe although the appellant does not know how reliable this is.
5. His underlying claim as accepted was consistent with country information but it was not felt that the Refugee Convention was engaged. He suggested a generalised fear of Isis rather than being specifically targeted by them. It was not felt he would be of any ongoing interest to ISIS. The respondent considered sufficiency of protection and relocation. It was felt he could relocate and live safely in Erbil in the IKR where the security situation was stable.
6. The appellant subsequently added to his claim by stating that since living in the United Kingdom he realised he was bisexual. He described having a male companion, Shawn. The respondent did not accept this was true.
7. His appeal was initially heard by First-tier Tribunal Judge Clough on 5 July 2017. In a decision promulgated in December 2017 the appeal was dismissed. Permission was then granted to appeal to the Upper Tribunal. Upper Tribunal Judge Macleman on 19 July 2018 found material errors of law and concluded that the decision should be set aside for a de novo hearing. The judge guided the next tribunal to make appropriate findings on the evidence about his experiences in Iraq and his sexuality. The next tribunal was also to consider the relevant country guidance cases and make findings on contacts the appellant retained in his home country.

8. Thus the appeal came before First-tier Tribunal Judge Mrs D H Clapham. The judge set out in detail the arguments advanced at the evidence at hearing. The appellant's credibility was central.
9. The judge's findings are set out from paragraph 93 onwards. The judge found that by the date of hearing the appellant was an adult. The judge accepted the appellant had been captured by Isis along with his family and managed to escape. The judge also found that up-to-date evidence indicated the influence of Isis had declined. The appellant had been taken by them, along with his mother and siblings, and his capture was random. Consequently, the judge saw no evidence to suggest he was at any greater risk than any other civilian on return and his previous experiences did not increase that. The judge also recorded that the appellant is from a contested area and as such there was a 15 C risk for him in his home area. Consequently, the judge turned to consider the question of relocation.
10. The judge concluded that he continues to have contact with either his uncle or his immediate family and friends. Consequently the judge concluded he was in a position to obtain the necessary CSI D and his Iraqi card or at least details to obtain replacements.
11. The judge then turned to the question of relocation to the IKR at paragraph 99. The judge recorded that he had a friend there with whom you can resume contact. The judge noted he was a Kurdish Sorani speaker. As a Kurd he was entitled to enter the IKR and there would be no legal impediments or requirement for a sponsor. The judge stated there were direct flights from the United Kingdom to Erbil. The judge pointed out he would receive a returns package which would help him at first instance. The judge acknowledged that unemployment rates were high. However, she concluded the appellant was extremely adept. She referred to him be able to speak English with transferable skills. The conclusion therefore was that return to the IKR was feasible.
12. The judge rejected his claim to be bisexual.

The Upper Tribunal

13. The application for permission to appeal did not challenge the negative credibility findings. Rather the focus was upon the question of the appellants relocation to the I KR. There was no dispute about the judge's findings in relation to documentation.
14. Permission to appeal to the Upper Tribunal was granted on the basis it was arguable the judge did not adequately consider the question of

internal relocation to the IKR. Reference was made to the decision of KH (Iraqi Kurds- internal relocation) Iraq CG [2018] UKUT 212.

15. The respondent has lodged a rule 24 response opposing the appeal.
16. In tandem with considering relocation the judge considered the appellant's article 8 rights and whether there would be very significant obstacles to his integration. The judge referred to the respondent's Guidance and of the very significant obstacles test. The judge pointed out a high threshold indicated. The guidance stated that lack of employment prospects would be unlikely to be a significant obstacle to integration. The comparator is with the proposed destination rather than United Kingdom. The judge then went on to the finding that the appellant could obtain a CSI D and refers to him having skills and friends if not family.
17. At hearing, the appellant's representative confirmed that no challenge was being made to the negative credibility findings. The representative was critical of the judge's findings at paragraphs 99 to 100 and suggested the reference to him having a friend was vague. The judge did not indicate where the finding that he had skills came from. I was then referred to the high level of unemployment in the IKR and the country guidance details on this.
18. In response, the presenting officer continued to oppose the appeal and referred to the rule 24 response. I was referred to the country guidance decision of AAH which the judge referred to. In the appellant's witness statement he had indicated he had engaged in agricultural work and those skills could continue. At paragraph 99 the judge had referred to how he might obtain employment. No difficulties with integration were identified. The judge had rejected his claim that he had lost contact with his uncle. He paid for his journey to the United Kingdom and could continue to help him. The judge had acknowledged that life in the IKR might be harsh for the appellant.
19. In response, the appellant's representative referred to statistics about conditions in the IKR. It was submitted that the negative credibility findings were not relevant to the question of relocation.

Consideration

20. AAH (Iraqi Kurds - internal relocation) Iraq [2018] CG UKUT 00212 (IAC)122 has provided guidance on living in the IKR. The guidance remains up-to-date. The guidance highlights the difficulties in the region exacerbated by the number of people coming from outside. The majority going into the IKR live with other family members. Some

families will be living in very difficult circumstances with high levels of unemployment. Family connections are very important for accommodation and to obtain employment. The camps are full. In the short term it would remain open to the returnee to rent an apartment. The resettlement grant would only cover the cost for the first few weeks. Conditions in 'critical shelter arrangements' vary. An individual facing destitution cannot be returned and it would be unduly harsh to return someone likely to be living in conditions coming close to this. The conclusion was that for those with no realistic prospect of securing a regular income, or support by other means, internal relocation to the IKR is likely to be unduly harsh.

21. I turned then to consider what factors the judge has referred to. The first observation I would make is that the judge had an appreciation of what was said in AAH (Iraqi Kurds - internal relocation) Iraq [2018] CG UKUT 00212 (IAC)122. It is not necessary for the judge to repeat what was said in the decision. What is important is to consider whether on a fair reading of the decision it has been demonstrated, either directly or impliedly at the judge has had regard to the relevant features.
22. The appellant is a young adult male. He is unmarried. There was no evidence of any health issues. He was found not to be credible in aspects of his claim. In cross-examination the appellant confirmed that he had been living with his mother and two brothers and a sister. He also stated he had a paternal uncle who was married and had four children. He said he had lived with his uncle for several months before coming to the United Kingdom. He claimed he had no contact with his immediate family since leaving and that contact with his uncle had ceased. He was cross examined in detail about this.
23. He was asked about his reference to having a friend in Iraq. Again, he claimed to have lost contact. The presenting officer in submissions raised inconsistencies about his claimed.
24. At paragraph 98 the judge did not accept he had lost contact with his uncle. The judge concluded that he has contact with either his uncle or his immediate family and/or friends. At least one of whom was in the IKR. At para 99 the judge accepted that life in the IKR might be harsh. Against that he is an ethnic Kurd from Iraq who speaks Kurdish Sorani. The judge then refers to the resettlement package and acknowledges this is finite. The judge recognises that unemployment rates are high at paragraph 100. However, her view was that the appellant was adept. He had been able to learn English. The question of the ability to integrate in terms of private life is a parallel but different consideration which the judge dealt with at paragraph 103.

25. The decision indicates that the judge was fully aware of the difficulties existing in the IKR. In considering the reasonableness of the appellant's relocation the judge highlighted relevant factors. The judge reached the finding that he was not without support there. Not only was there the resettlement package but he had family contacts. The judge is attempting to piece together the pieces of information in assessing the reasonableness, bearing in mind the appellant has been found to lack credibility. It is my conclusion no flaw has been demonstrated in the judicial process. I find no material error of law established.

Decision.

No material error of law has been established in the decision of First-tier Tribunal Judge Mrs D H Clapham. Consequently, that decision dismissing the appellant's appeal shall stand.

Francis J Farrelly
Deputy Upper Tribunal Judge.

Date 7 August 2019