



**Upper Tribunal
(Immigration and Asylum Chamber)
PA/08428/2018**

Appeal Number:

THE IMMIGRATION ACTS

Heard at North Shields

On 30 August 2019

**Decision & Reasons
Promulgated**

On 6 September 2019

Before

DEPUTY UPPER TRIBUNAL JUDGE JM HOLMES

Between

A. A.

(ANONYMITY DIRECTION MADE)

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms Rogers, Solicitor, Immigration Advice Centre Ltd

For the Respondent: Mr Bates, Senior Presenting Officer

DECISION AND REASONS

1. The Appellant, a national of Iraq, entered the United Kingdom illegally in 2017 and claimed asylum. His protection claim was refused on 20 June 2018. The Appellant's appeal against that decision was heard on 17 September 2018, and it was dismissed by First Tier Tribunal Judge Moxon on all grounds in a decision promulgated on 4 October 2018.
2. The Appellant was granted permission to appeal by decision of 17 January 2019 of Deputy Upper Tribunal

Judge Taylor on the basis it was arguable the Judge had erred having decided that the Appellant could not return to his home area of Kirkuk, in failing to provide adequate reasons beyond his general lack of credibility for his ability to relocate to the KRG.

3. No Rule 24 Notice has been lodged in response to the grant of permission to appeal. Neither party has applied pursuant to Rule 15(2A) for permission to rely upon further evidence. Thus the matter came before me.

The hearing

4. When the appeal was called on for hearing Ms Rogers accepted that she was in some difficulties in advancing the criticisms that had been levelled against the decision in the grounds. She accepted that the decision was adequately reasoned, and that the Judge's findings were open to him on the evidence.
5. Ground 1 had complained about the weight attached to the record of the Appellant's screening interview, and ground 2 that the Judge had found him to be contradictory and evasive. Ground 3 had complained that the Judge placed weight upon the fact that the Appellant was brought from Greece across Europe without claiming asylum until his arrival in the UK. There is in my judgement no merit in either of these complaints, and on a strict reading of the grant of permission it does not appear that Deputy Upper Tribunal Judge Taylor actually intended to grant permission in relation to them. However, even if she did, as Ms Rogers now accepts, there is no proper basis to these complaints and they disclose no material error of law in the Judge's approach to the evidence.
6. Accordingly the adverse findings of primary fact that the Judge made must stand. The Appellant had invented a fictitious account of his experiences in Kirkuk in order to advance a bogus claim to asylum [39]. He was still in contact with his family in Iraq; and their circumstances had allowed them to pay for his travel to the UK, which had included a three month stay in a hotel in Greece. He had not lost his CSID as he had claimed; he retained it. He also had the ability as a result of his ongoing contact with his family to satisfy the Iraqi authorities as to who he was.
7. The Judge therefore turned to consider the humanitarian protection appeal on the basis the Appellant was an ethnically Kurdish individual who had been born in, and had grown up in, Kirkuk, who held his own CSID and remained in contact with his family in Iraq. The Judge recognised that the Appellant, as a civilian, could not be expected to return to Kirkuk because it was a contested area, and the risk of harm to civilians remained too high

- [42-3]. Thus he considered the two possible areas for relocation to avoid that risk; Baghdad, and the KRG.
8. No complaint is made by either party of the Judge's finding that the Appellant's return to Iraq was feasible. The Judge took as his starting point that the point of return to Iraq would be by air from the UK to Baghdad, and that the Appellant would be travelling upon his own legitimate CSID.
 9. Equally there is no complaint by either party in relation to the Judge's conclusion that it was unreasonable to expect the Appellant to relocate to Baghdad [44]. That finding was consistent with the guidance to be found in BA (Returns to Baghdad) Iraq CG [2017] UKUT 18.
 10. On the other hand the Judge concluded that the Appellant could travel in safety from Baghdad to the KRG using his own legitimate CSID [47]. That approach is confirmed in a series of country guidance decisions, of which AAH is the most recent; only a CSID is required to board an internal flight from Baghdad to the KRG.
 11. Upon arrival at the KRG the Judge noted that the Appellant would be able to establish to the satisfaction of the legitimate authorities, using his own travel documents; his true identity, that he was recently arrived in Iraq from the UK, and, that he was a Kurd born in Kirkuk [48]. Applying the current country guidance of AAH he noted that the Appellant would be granted admission to the KRG, and that he would be able to seek legitimate employment in the KRG without requiring sponsorship.
 12. The Judge correctly noted that the Appellant would have access to the funding provided through the voluntary returns scheme, and the Appellant cannot be heard to say that it would be unavailable to him because he would refuse to co-operate with his removal.
 13. The Judge noted that the Appellant had denied he had family in the KRG. He did not expressly reject that evidence, but found that the Appellant could draw upon support from his extended family wherever in truth they were located. There is no error of law in that approach. Since the extended family's resources had been able to finance his travel to the UK, the Judge found that the Appellant had failed to establish that those resources would no longer be available to him, and that the family would be unable to provide financial assistance to him in the KRG. As Ms Rogers accepts, those findings were open to the Judge on the evidence, and they were adequately reasoned.
 14. The Judge considered the lack of family physically present in the KRG, and the Appellant's lack of employment skills, but nevertheless found that in all the circumstances his relocation to the KRG would not be

unduly harsh. Absent any sustainable challenge to the Judge's relevant findings of primary fact, the conclusions that were reached in relation to the ability of the Appellant to internally relocate to the KRG to avoid the risks of harm he would face if he were to seek to return to Kirkuk were open to the Judge, and were adequately reasoned. It was open to the Judge to conclude in the light of the guidance to be found in AAH (Iraqi Kurds – internal relocation) Iraq CG [2018] UKUT 212 that in reality the Appellant would with the assistance of his extended family be able to secure employment and suitable accommodation so that he was not forced into destitution, or, into living in a “critical shelter arrangement”. Read as a whole it is in my judgement clear that this was the Judge's decision and reasoning.

15. In the circumstances, which include Ms Rogers' acknowledgement of the lack of merit in the challenge, and notwithstanding the grant of permission to appeal, I am not satisfied that the Judge fell into any material error of law when he dismissed the appeal. In my judgement the grounds fail to disclose any material error of law in the approach taken by the Judge to the evidence before him that requires his decision to be set aside and remade.

DECISION

The Determination of the First Tier Tribunal which was promulgated on 4 October 2018 contained no material error of law in the decision to dismiss the Appellant's appeal which requires that decision to be set aside and remade, and it is accordingly confirmed.

Direction regarding anonymity - Rule 14 Tribunal Procedure (Upper Tribunal) Rules 2008

Unless and until the Tribunal directs otherwise the Appellant is granted anonymity throughout these proceedings. No report of these proceedings shall directly or indirectly identify him. This direction applies both to the Appellant and to the Respondent. Failure to comply with this direction could lead to proceedings being brought for contempt of court.

Signed

Deputy Upper Tribunal Judge JM Holmes
Dated 30 August 2019