



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

Appeal Number: PA/09512/2018

**THE IMMIGRATION ACTS**

**Heard at Birmingham CJC  
On 4 June 2019  
Prepared 4 June 2019**

**Decision & Reasons Promulgated  
On 27 June 2019**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE DAVEY**

**Between**

**D H A  
(ANONYMITY DIRECTION MADE)**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr M Bradshaw, Counsel instructed by Bankfield Heath Solicitors

For the Respondent: Mrs H Aboni, Senior Presenting Officer

**DECISION AND REASONS**

1. The Appellant, a national of Iraq, date of birth 15 October 1990, appealed against the Respondent's decision, dated 20 July 2018, to refuse a protection claim founded principally on the claim that he formerly of the Islamic faith had converted to Christianity in Iraq and that as an apostate he would face serious consequences on return both arising under his

relationship with his father and family but also generally as a convert to Christianity.

2. His claim was rejected and the appeal was made to First-tier Tribunal Judge James, (the Judge) who, on 27 September 2018, dismissed the appeal but made an anonymity order which is continued.
3. Permission to appeal that decision was given on 1<sup>st</sup> November 2018. The two principal grounds are first the judge's findings in relation to the Appellant's claim to have converted to Christianity; Secondly in terms of the issue of ability to return to the IKR in Iraq as in the light of the country guidance case of AAH (Iraqi Kurds – internal relocation) Iraq CG [2018] UKUT 00212.
4. Having heard Mr Bradshaw's analysis of the sufficiency and adequacy of the reasons, which Mrs Aboni properly accepts makes it difficult to defend the judge's decision, coincided with my view that the structure in which the decision has been written. There was a fair recitation of the evidence but a marked lack of adequate or sufficient reasons to be a material error of law.
5. There are other criticisms that are made not least to the possibilities that the judge was moving away from the recognised standard of proof expected in protection cases which was always acknowledged as a low one but appeared often to be applied at a higher level. In terms of the assessment of the Appellant's evidence the judge has also had recourse to the description of plausibility in relation to the Appellant's evidence: Rather than the extent to which it is reliable or otherwise to be rejected for reasons given. I found therefore that the Original Tribunal's decision contains material errors of law in the proper assessment of the issues. Mrs Aboni correctly pointed out the judge had really failed to address the consequences of the case of AAH in terms of the issues of return and has

given no good reasons for rejecting that country guidance or indicating why in the case of the Appellant it would not be applicable.

6. In the circumstances I concluded that the issue will have to be addressed again in the First-tier Tribunal.

### **NOTICE OF DECISION**

The Original Tribunal's decision cannot stand. The matter will have to be remade in the First-tier Tribunal not before First-tier Tribunal Judge James.

### **DIRECTIONS**

List for hearing two and a half hours unless the Tribunal is notified of a lesser time estimate or a need for a greater one.

Any further evidence relied upon by the Appellant in support of the claims to be served not later than ten clear working days upon the Secretary of State and the Tribunal.

Any response from the Secretary of State to be served not later than five clear working days before the further hearing.

Any further directions if required to be given in the First-tier Tribunal.

No findings of fact to stand.

### **ANONYMITY DIRECTION**

The anonymity order is continued.

### **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 their 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 20 June 2019

Deputy Upper Tribunal Judge Davey