



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: PA/00546/2020

THE IMMIGRATION ACTS

Heard at: Manchester Civil Justice Centre (remote)
On: 3rd December 2020

Decision & Reasons Promulgated
On 11th December 2020

Before

UPPER TRIBUNAL JUDGE BRUCE

Between

NTF
(no anonymity direction made)

Appellants

And

Entry Clearance Officer, Sheffield

Respondent

For the Appellants:
For the Respondent:

Mr Karnik, Halliday Reeves Law Firm
Mr McVeety, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The Appellant is an Iraqi Kurd born in 1991. His protection appeal was dismissed on the 8th April 2020 by the First-tier Tribunal (Judge Alis). The Appellant was granted permission to appeal by Upper Tribunal Judge Rintoul on the 22nd July 2020.
2. Before me the parties are in agreement that the decision of Judge Alis is flawed for material error of law and that it must be set aside, the Respondent's consent

being expressed in a 'Rule 24 response' prepared by Senior Presenting Officer Mr D Clarke on the 29th October 2020.

3. The errors of law agreed by Mr Clarke are:
 - i) Mistake of fact. At its §42 the First-tier Tribunal rejects the Appellant's claim to have been shot at and attacked because he was "left with no scarring". In fact the Appellant has extensive scarring.
 - ii) Failure to apply the *Surendran* guidelines. There was no PO present at the First-tier Tribunal hearing. As such it was incumbent on the Tribunal to put matters of concern to the Appellant to give him an opportunity to address the issue raised. The Secretary of State accepts, particularly with reference to the reasoning at §35 and §42, that this was not done, and accordingly that the Appellant did not have a fair hearing.
4. In light of her concession at (ii) above the Secretary of State invites the Tribunal to remit the matter to the First-tier Tribunal so that the appeal may be heard *de novo*. For the Appellant Mr Karnik agreed that this was the appropriate course.

Anonymity Order

5. This appeal concerns a claim for protection. Having had regard to Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 and the Presidential Guidance Note No 1 of 2013: Anonymity Orders I therefore consider it appropriate to make an order in the following terms:

"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 to, amongst others, both the Appellant and the Respondent. Failure to comply with this direction could lead to contempt of court proceedings"

Decision

6. The determination of the First-tier Tribunal contains errors of law and it is set aside.
7. The decision in the appeal will be remade following a *de novo* hearing in the First-tier Tribunal.
8. There is an order for anonymity.



Upper Tribunal Judge Bruce
3rd December 2020