



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

Appeal Number: PA/06655/2019

THE IMMIGRATION ACTS

**Determined at Field House without a
Hearing
On 15 July 2020**

**Decision & Reasons
Promulgated
On 5 August 2020**

Before

UPPER TRIBUNAL JUDGE PERKINS

Between

**SQ
(ANONYMITY ORDER IN FORCE)**

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

DECISION AND REASONS

1. Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 I make an order prohibiting the disclosure or publication of any matter likely to lead members of the public to identify the Appellant. Breach of this order can be punished as a contempt of court. I make this order because the appellant is an asylum seeker and is entitled to privacy. His appeal rights are not exhausted and it is possible that publicity could create a risk that did not otherwise exist.
2. This is an appeal by a citizen of Iraq. I emphasise this because although it is clearly the case the suggestion that he is a citizen of Iran has crept into the papers and, I find, may have caused confusion. He appeals with the permission of the First-tier Tribunal a decision of the First-tier Tribunal to dismiss his appeal against a decision of the Secretary of State refusing him international protection.

3. Permission to appeal was given on one ground only but as far as I can see the paperwork that should have accompanied such a decision did not so the Appellant was not alerted to the possibility of applying to the Upper Tribunal for permission to appeal on the points on which permission had not been granted.
4. The appeal was identified as one possibly suitable for disposal without a hearing and Upper Tribunal Judge Lane gave further directions, sent on out 29 April 2020, suggesting that, given the constraints on Tribunal resources arising from the well-publicised national lockdown as a consequence of the COVID-19 pandemic the appeal should be determined without a hearing.
5. I remind myself that the Rules do not provide that either party is *entitled* to a hearing but I am obliged by Rule 34 of the Tribunal Procedure (Upper Tribunal) Rules 2008 to have regard to any view expressed by the parties and I recognise that appeals are usually decided after an oral hearing.
6. In response to those directions the Secretary of State has produced a Rule 24 notice indicating amongst other things that the Secretary of State is content for a disposal without a hearing. The appellant has not addressed the point but has made further submissions.
7. The Tribunal's proceedings must be fair. Both parties have had ample opportunity of making full representations. The strain on the Tribunal's resources means that listing this case for an oral hearing would cause delay and, probably, delay to other cases too as space was made in the list to accommodate this appeal. I am satisfied that on this occasion the balance between efficiency and the interests the parties is in favour of determining the appeal without a hearing.
8. I must begin by determining the scope of that hearing. The Secretary of State's additional grounds drawn by Mr E Tufan, Senior Home Office Presenting Officer point out that permission has only been granted on one point. This should have resulting in the grant of permission being accompanied by a Notice informing the Appellant that the grant of permission was limited and that he could apply to the Upper Tribunal for permission on other the other grounds.
9. Having considered all of the material before me I have decided to treat the Appellant's full skeleton argument as an application to rely on all of the grounds. I am satisfied that if I choose to allow that application the Secretary of State will not be disadvantaged unfairly.
10. Ground 1 complains that "The IJ failed to take into account the relevant law". This is wide-ranging but the criticism is narrowed in the particulars. The point is that the Appellant claims to have been involved in a certain amount of internet activity such as Facebook in which he was critical of the government of Iraq. The grounds draw attention to a case of the European Court of Human Rights known as **SF and Others v Sweden (app no: 52077/10) ECtHR (Fifth Section)** 15 May 2012 and also **AB and Others (internet activity - state of evidence) Iran [2015] UKUT 0257 (IAC)** but both of these cases

relate to conditions in Iran. As a sweeping generalisation that will do but for present purposes there are good reasons to be concerned about the safety of a person returned to Iran who had been involved in any kind of internet activity but the ground draws attention to no evidence before the Tribunal or in reported cases to show that similar concerns exist in the case of returns to Iraq.

11. Ground 2 is similarly wide and complains that “The IJ is taking into account things that he should not”. This is a reworking of the same point arising from alleged difficulties facing someone because of internet activity. It adds nothing to Ground 1.
12. Ground 3 states “The IJ has failed to consider internal relocation”. This appears to be a criticism of the First-tier Tribunal’s approach to the binding decision in **Devaseelan** but I cannot discern precisely what point is being made.
13. Ground 4 is entitled “The IJ does not consider Internal Relocation correctly”. The complaint here is that the Immigration Judge has accepted that the Appellant can live in Baghdad if he can get there but he does not have the travel documents that would enable him to pass through checkpoints. The Immigration Judge is said to have found that the Appellant does not have documents and so a return to Iraq is not feasible. Ground 4 then refers to the appellant being a national of Iran. I can only assume this is a mistake.
14. The First-tier Tribunal Judge giving permission noted that the trial judge found that the Appellant’s case was not credible but she did say that there was arguably an error in the “finding at [16(xi)]”. I set that out below. The trial judge said:

“It was submitted that the appellant would be returned to Baghdad but would be unable to travel due to lack of documentation as he would have to pass through a number of checkpoints. I accept that this is the case but, having found the appellant’s evidence to lack credibility, do not accept that there is no family support available to him in Iraq to assist in obtaining the relevant information to enable him to acquire the necessary documentation on return. In making this finding I have taken into account the relevant country guidance case law of **AAH (Iraqi Kurds - internal relocation) Iraq CG UKUT 00212 (IAC).**”
15. I do not permit argument on the first three grounds. To the extent that they are intelligible they are wrong.
16. In the Secretary of State’s response Mr Tufan draws attention to the decision of the Tribunal in **SMO, KSP & IM (Article 15(c); identity documents) Iraq CG [2019] UKUT** and the guidance there. Clearly this was not before the First-tier Tribunal but it is now the view of the Tribunal that, as explained at paragraph 13 of the headnote, that Iraqi citizens generally can be relied upon to recall their necessary details because it is so much part of society and therefore something that they will need. Mr Tufan’s argument is that the appellant can obtain a replacement CSID from the Iraqi Consulate in London or he can obtain support from his family if necessary. This point is good even

without reliance on the latest country guidance because the judge's found that the Appellant was not truthful when he said there was no-one to support him.

17. This is not a case where the grounds challenging the decision have been particularly helpful. The short point is that the Appellant is an Iraqi Kurd. Ordinarily he can be returned safely. It is his case that he cannot get the necessary documents for travel but he was disbelieved and no error of law has been found in the decision to disbelieve him.

18. It follows that I find no error of law and I dismiss the appellant's appeal.

Decision

19. The appeal is dismissed.

Jonathan Perkins

Signed
Jonathan Perkins
Judge of the Upper Tribunal

Dated 20 July 2020