



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

Appeal Number: LP/00013/2020
(PA/50108/2019)

THE IMMIGRATION ACTS

**Heard at Bradford
Via Teams
On 15 October 2021**

**Decision & Reasons Promulgated
On 16 November 2021**

Before

UPPER TRIBUNAL JUDGE LANE

Between

**BMS
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mrs Johnrose

For the Respondent: Mr Bates, Senior Presenting Officer

DECISION AND REASONS

1. The appellant is a citizen of Iraq who was born in 1997. He appealed to the First-tier Tribunal against a decision of the Secretary of State dated 10 September 2019 refusing his claim for international protection. The First-

tier Tribunal, in a decision dated 27 January 2021, dismissed his appeal. The appellant now appeals, with permission, to the Upper Tribunal.

2. At the outset of the initial hearing in the Upper Tribunal, Mr Bates, who appeared for the Secretary of State, accepted that the judge had fallen into error in her credibility assessment. The appellant claims to be real risk in Iraq because his family is involved in a blood feud with the family of a persons referred to by the judge as H and his brother, L. At [25-26], the judge made findings regarding the appellant's claim that his brother (S) had fired on the home of L but had not told the appellant that he had done so. The judge wrote that, 'even if S were under the influence of alcohol, as the application asserts, and upset because of the death of his sister, I do not find it credible that he would act in the manner described by the appellant, thereby putting the appellant at significant risk.' Mr Bates submitted that the judge should have made clear findings as to whether she found that S had been intoxicated and whether the shooting had been a spontaneous consequence of anger and distress at the death of the sister or pre-meditated (in which case, additional findings as to why S had not warned his family had been required).
3. At [26], the judge considers the appellant's claim that, in November 2015 after the shooting incident involving S, the appellant had been abducted and hit over the head with the handle of a pistol. Despite bleeding and losing consciousness, the appellant chose, when he awoke, to report the incident (so as to warn and protect S) rather than seek treatment for his injuries, a claim which the judge did not find credible. Mr Bates submitted that the judge had not made clear findings as to how seriously the appellant had been injured and had not also addressed the possibility that the appellant would put his brothers' safety before his own self-interest.
4. Notwithstanding the errors which he accepted the judge had perpetrated, Mr Bates submitted that the decision should not be set aside. He submitted, first, that the appellant could expect to enjoy a sufficiency of protection in Iraq from the government authorities; it was significant that the appellant's assailants had been arrested. Secondly, even if the appellant were at real risk in his home area, he could exercise the option of internal flight to an area where he would be safe within Iraq.
5. Although I note that those individuals who had abducted the appellant are now in prison, I am not satisfied that the judge, in reaching her findings as regards sufficiency of protection, has adequately addressed the Country Policy and Information concerning honour crimes (subsequent to the promulgation of the First-tier Tribunal's determination, the same information as that before the judge now appears in CPIN Iraq: 'Honour' crimes (Version 2.0 March 2021)). Both CPINs conclude that '... authorities in Iraq and the IKR cannot be considered as willing and able to provide effective protection to those at risk from 'honour' crimes.' (this passage now appears at 2.5.6 of the latest CPIN).

6. There is a further problem with Mr Bates's submission. Both the judge's analysis of internal flight and sufficiency of protection rests on findings that the appellant was not telling the truth (for example, her findings that the appellant has not lost touch with his family members in Iraq and can, as a result, use their help in obtaining replacement identity documents [54-55]) which, in turn, are not safe on account of the flaws in her credibility assessment. I am not, therefore, persuaded that the decision as a whole can stand notwithstanding the judge's errors for the reasons advanced by Mr Bates.
7. For the reasons I have given, I set aside the decision. None of the findings of fact shall stand. There will need to be a fresh fact-finding exercise which is better conducted in the First-tier Tribunal.

Notice of Decision

The decision is set aside. None of the findings of fact shall stand. The appeal is returned to the First-tier Tribunal for that Tribunal to remake the decision following a hearing *de novo*.

LISTINGS DIRECTIONS: Return to First-tier Tribunal at Manchester; not Judge Handler; first available date; Kurdish Sorani interpreter.

Signed

Date 24 October 2021

Upper Tribunal Judge Lane

Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008

Unless and until a Tribunal or court directs otherwise, the appellants are granted anonymity. No report of these proceedings shall directly or indirectly identify them or any member of their family. This direction applies both to the appellants and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.