



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

Appeal Number: PA/02325/2020

THE IMMIGRATION ACTS

**Heard at Manchester
Via Teams
On 15 November 2021**

**Decision & Reasons
Promulgated
On 22 November 2021**

Before

UPPER TRIBUNAL JUDGE LANE

Between

**ASM
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Howard

For the Respondent: Mr McVeety, Senior Presenting Officer

DECISION AND REASONS

1. The appellant is a citizen of Iraq who was born in 1946. He appealed to the First-tier Tribunal against a decision of the Secretary of State dated 24 February 2020 refusing his claim for international protection. The First-tier Tribunal, in a decision promulgated on 5 May 2021, dismissed his appeal. The appellant now appeals, with permission, to the Upper Tribunal.
2. There are four grounds of appeal. Grounds 3 and 4 are without merit. The judge has dealt adequately with any risk to the appellant under Article 15(c) of the Qualification Directive (2004/83/EC) (Ground 3) at [60].

Contrary to what is asserted in the grounds [3.3], the judge has considered the application's personal characteristics at [60]. The judge has likewise considered the evidential basis of the appellant's Article 8 ECHR appeal and has reached findings which were open to him. The grounds criticise the judge's conclusions but make no attempt to explain why the appellant considers the judge's reasons inadequate. I note that Mr Howard, who appeared for the appellant at the Upper Tribunal initial hearing, made no detailed submissions in respect of Grounds 3 and 4.

3. As regards Ground A (an additional ground of appeal advanced only before the Upper Tribunal at permission stage), Mr Howard submitted that the judge had applied too high a standard of proof in assessing the evidence in the appeal. At [46], [52] and [54], the judge had used the word 'incredible' when rejecting parts of the appellant's account, in particular his claim that the militia had given his wife the opportunity to avoid arrest in 2018; the speed with which he claimed to have contacted the Red Cross in 2019; that a stranger had agreed to be imprisoned if the appellant's wife evaded arrest by the militia.
4. The judge has accurately stated the standard of proof at [25] before he considered the evidence or made any findings of fact. I find that the decision should be read on the basis that the judge has applied the standard of proof which he has said he would apply. The three occasions in his decision where he has found the evidence 'incredible' he has used that adjective to describe parts of the account which he found particularly difficult to accept. Indeed, at [54] he uses the expression '*entirely* incredible' to emphasise his lack of belief. I find that the judge has employed the word 'incredible', in effect, to convey his view that parts of the appellant's evidence could not be accepted as true by reference to *any* standard of proof, including the lowest standard; in other words, the evidence was such that it could not cross even the low standard which applies in asylum appeals. Moreover, there is no reason at all to consider that, having assessed the remainder of the evidence according to the correct standard he had set out at [25], the judge has chosen to apply a different, let alone a higher, standard to particular items of the evidence. I am satisfied that the judge has not erred in law for the reasons advanced in Ground A.
5. Ground 1, which challenges the judge's assessment of an arrest warrant and a summons put in evidence by the appellant, is also without merit. The judge correctly directed himself at [44] to consider these items of documentary evidence in the context of all the evidence (see *Tanveer Ahmed** [2002] UKIAT 00439, which the judge cites) and reached findings regarding the summons which were patently open to him. His treatment of the warrant is likewise sound in law. The judge identified inconsistencies on the face of the document [48-49] which entitled him to attach limited evidential weight to it. The grounds [1.3] offer an explanation for the apparently inconsistent dates on the document but there is nothing to indicate that this explanation was put before the Tribunal.

6. The final challenge has more substance. The appellant complains that the judge failed to follow country guidance (*SMO, KSP and IM (Article 15(c); identity documents) Iraq CG [2019] UKUT 400*) in his consideration of the appellant's ability to obtain identity documents (in particular, a CSID) before he returns to Baghdad and thereafter travels to his home area of Iraq. At [64], the judge wrote:

In any event, the appellant remains in contact with his brother who could provide [sufficient details for the appellant to obtain a replacement card from the Iraqi embassy in London] if necessary, if not his existing CSID (which he told [the judge of the previous First-tier Tribunal] was in Iraq.

Mr Howard submitted that the judge has failed to make a clear finding, consistent with *SMO*, that the appellant would be able to avoid the real risk of harm on account of being returning undocumented to Baghdad.

7. I find that the judge could have used clearer language at [64]; 'could provide' and 'if necessary' may lack the right tone for unequivocal findings of fact. However, the fact remains that the previous First-tier Tribunal had found that the appellant's valid CSID is in Iraq whilst both Tribunals were clear that the appellant remains in contact with his brother and that he can access the CSID. I am satisfied that the judge's findings are tolerably clear: the appellant does not need to obtain a replacement card as he can obtain and use his existing card. Consequently, questions regarding the continuing availability of CSIDs in the application's home area, the need to provide biometric information to obtain a new INID and uncooperative responses encountered at the Iraqi Embassy do not arise. In so far as the judge has addressed such questions in the alternative (and I accept that his comments regarding replacement identity documents are problematic) his analysis is nugatory.
8. For the reasons which I have given above, I find that the judge did not err in law such that his decision falls to be set aside. The appeal is dismissed.

Notice of Decision

The appeal is dismissed.

Signed

Date 15 November 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.