



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: PA/04691/2019

THE IMMIGRATION ACTS

Heard at Bradford (via Skype)
On 19 February 2021

Decision & Reasons Promulgated
On 03 March 2021

Before

UPPER TRIBUNAL JUDGE HANSON

Between

SAR

(Anonymity direction made)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Greer instructed by Citizens Advice Bureau (Bolton)

For the Respondent: Mrs Pettersen Senior Home Office Presenting Officer.

DECISION AND REASONS

1. The appellant appeals with permission a decision of First-tier Tribunal Judge Bannerman ('the Judge') promulgated on 6 December 2019 in which the Judge dismissed the appellant's appeal on all grounds.
2. Permission to appeal was granted by another judge of the First-tier Tribunal, the operative part of the grant being in the following terms:

The grounds disclosed an arguable error of law but for which the outcome of the appeal might have been different. The judge arguably failed to give reasons or any adequate reasons in support of his finding that the appellant had not given a credible account of events or of his experiences before leaving his country. The judge's assessment of the appellant's credibility was to be found at paragraphs 100 to 102 inclusive of his decision. The judge's concerns which individually and cumulatively led him to his finding as to the appellant's credibility were arguably lacking in reasonable degree of particularity and arguably failed to acquaint the appellant with the reasons why the judge found that he had not given a credible account of events and of his experiences. The judge seemingly approbated the respondent's conclusions as to the appellant's credibility and in at least one respect the judge condemned the appellant's account as "incredible". The judge arguably did not embark upon an adequate or detailed assessment of the appellant's account of events and his experiences. The application for permission is granted.

Background

3. The appellant is a citizen of Iraq who was born on 1 January 1993 and who claimed asylum on the basis of an alleged risk on return as a member of a particular social group (PSG), namely the potential victim of a blood feud. The appellant claimed an accident occurred when he was driving a motor vehicle resulting in his having been detained by the authorities, taken to a court but not convicted, after which he received threats to his life from the family of the person who died, which the appellant claimed led him to having to flee Iraq.
4. The Judge had the benefit of not only the documentary evidence but also of seeing and hearing oral evidence being given before setting out findings of fact from [99] of the decision under challenge.
5. The relevant paragraphs referred to in the grant of permission, [101 - 102], are in the following terms:
 100. I did not find the Appellant to be credible. The criticisms of him found in the reasons for refusal letter by the Respondent are, in my view, fully justified. There are anomalies in his explanation particularly with regard to going to a chemist with someone bleeding from their head and apparently unconscious and found a few minutes after the chemist to be dead on arrival at a hospital, simply to be incredible. There is the lesser aspect of whether he ran over somebody or whether somebody fell off the back of his truck that he was driving contained in the interviews and statements as compared to his oral evidence just simply add up to a credible case even against the lower standard of proof. There were inconsistencies and backtracking by him, particularly in his evidence before me, with the exception of when he lowered his guard regarding the ability to obtain his CSID passport from his family in Iraq.
 101. I concede of course that there are family feuds and blood feuds in Iraq and in Kurdistan indeed but his explanation of what he says happened to him did not allow me to consider that he was driving a vehicle on which [M] was killed even on the lower standard. He couldn't for example, adequately confirm the period of time he was supposed to be on protection and that altered, there is a Section 8 issue with his fingerprints being taken but also travelling through France and Italy which must be taken into account and have some bearing and weight upon the whole credibility issue for me particularly with regard to this aspect of his claim.
 102. His particular circumstances do not speak to me, even against the lower standard, of a blood feud that led to a well-founded fear of persecution for the claimed death of this man and the accidents that strike me, despite his novelty of explanation with regard to

falling off the back of a truck whilst to shoot rabbits, was one that was credible and I found it incredible. He couldn't say, even against a round number, how many people were in his tribe which seemed at yet another bizarre element to this particular claim and one, as I say, that I simply did not find to be credible, notwithstanding the terms of the interviews and statements.

Error of law

6. As conceded by Mr Greer this is a reasons challenge. It was submitted that the Judge dictated but had not proofread the decision. The lack of care in proof reading is made out as at 100 the Judge clearly intended to write that the evidence "just simply did not add up to a credible case", not as it is stated.
7. It was submitted the losing party was unable to understand what the Judge had found and the reasons for the same. It was submitted that the Judge rejected aspects of the appellant's case without giving an adequate explanation.
8. Although Mr Greer accepted some findings had been made, he argued there was no explanation for the same. Whilst the Judge found something was accepted it was submitted the Judge failed to finish such a sentence by explaining why he found the appellant lacks credibility. Mr Greer submitted it was this latter element, the "because" element, that was missing.
9. In relation to the Judge's findings regarding FGM it was submitted there were some inconsistencies in relation to the appellant's account given to the social worker as identified by the Judge but submitted the Family Court had made an FGM protection order to protect the child against the risk of FGM due to the wider issue of family and culture in Kurdistan.
10. The Secretary of State filed a Rule 24 response dated 31 January 2021 the relevant part of which is in the following terms:
 2. The respondent opposes the appellant's appeal. In summary, the respondent will submit inter alia that the judge of the First-tier Tribunal directed himself appropriately.
 3. The Respondent respectfully submits that the grounds of appeal and permission grant amount to nothing more than disagreement.
 4. At paragraph 100 of the determination the FTTJ has given valid and cogent reasons why the appeal should be dismissed, and contrary to the grounds it is tolerably clear why the appeal has been dismissed.
 5. In addition to the grounds in respect of the issue of FGM at paragraph 103 - 108, the Judge has relied, as he was clearly entitled to do, on the major discrepancy in the Appellant's account in the account given to the Social Worker.
11. In relation to the appellant's claim to be entitled to a grant of international protection as a potential victim of an honour crime, this claim was based upon an assertion the appellant was driving a vehicle in which another was killed as a result of which he was viewed as the person responsible for the death by the family of the deceased. This is not a case in which the Judge has been shown to have approbated the reasons in the refusal letter without giving proper consideration to the evidence and assessing the merits of the case for himself, based upon the written and oral evidence. The fact the Judge's conclusion was that the appeal should be rejected similar to the Secretary of State's reasons for

rejecting the asylum claim, does not amount to legal error per se. The Judge made his own findings having assessed the evidence and taking note of the reasons for why it was felt the claim lacked merit in the refusal letter.

12. It was not necessary for the Judge to give reasons for his reasons. A reader of the determination, provided it is read as a whole, is able to understand why the Judge had the concerns he did giving rise to the rejection of the protection claim. The evidence the Judge had included both an assertion the alleged deceased died when he fell out of the back of the truck being driven by the appellant and the same person also being killed by the appellant running over him in the truck. The Judge was entitled to conclude that such anomalies were material as both suggested alternative causes of the death of the individual concerned, sufficient to undermine not only that one particular aspect but also the entire core of the appellant's claim which was based upon an alleged real risk from the family of the deceased.
13. Whilst the issue concerning the chemist does not appear to be explained at [100] that relates to what was said to be a consequential issue following the individual falling out of the truck or being run over. As that initial event was found by the Judge not to have occurred, for arguably sustainable reasons, what followed thereafter was also not true.
14. The Judge had the benefit of seeing and hearing the appellant give oral evidence and was able to form a view on whether the appellant was a credible witness. The Judge did not find the appellant to be so identifying what he described as inconsistencies in the appellant backtracking in his evidence. That is a plausible reason which has not been shown to be a finding outside the range of those reasonably available to the Judge.
15. A judge is not required to set out all the evidence and make findings in relation to each and every aspect and I find an informed reader of the determination can clearly understand why the Judge came to the conclusion he did; namely that the appellant's account lacks credibility and the consequences of such a finding.
16. In relation to the FGM issue, there is reference in the Rule 24 reply to paragraphs [103-108] of the decision under challenge. In those paragraphs the Judge considers the background information relating to FGM in Iraq and accepts it is a relevant factor in light of the presence of the appellant's daughter who was about 3 ½ years of age at the date of the hearing. At [104] the Judge writes:
 104. What weighs heavily in that case are the Social Worker notes that they have. The Social Work Department noted that the families of the Appellant and his wife accepted their decision not to proceed with FGM in Iraq for their daughter.
17. The Judge was aware that an FGM PO had been made but did not find this was due to any risk from family but from others. The Judge finds the appellant and his wife have no intention of allowing FGM to occur to their daughter and have been able to protect her from any such influences that might have existed in Iraq from family or others for the whole time they were in Iraq.
18. The Judge notes the ongoing contact between the appellant and his family and did not find there was a real risk of persecution of the child on the basis of

membership of a Particular Social Group, especially in light of the fact the parents were against the procedure

- 19. The evidence contained in the Family Court papers shows the appellant and his wife consented to the making of the FGM PO and the fact they could not understand why one was being made as it was not required in the circumstances of this family.
- 20. The Judge’s conclusions are adequately reasoned, and a reader can fully understand why it was found that no entitlement to international protection arose on this ground. It is not a case of it being found by the Family Court, having heard evidence, that a real risk exists but more of a precautionary measure for the reason stated. It is not made out that the making of the FGM PO is a barrier to the appellant or any family member returning to Iraq on the facts.
- 21. The Judge gives ample reason for why the appellant was unable to succeed on either protection or human rights grounds. Whilst Mr Greer submits the Judge should have done more, I find it not made out the Judge has erred in law in a manner material to the decision to dismiss the appeal sufficient to warrant the Upper Tribunal interfering any further in this case.

Decision

- 22. **There is no material error of law in the Immigration Judge’s decision. The determination shall stand.**

Anonymity.

- 23. The First-tier Tribunal made an order pursuant to rule 45(4)(i) of the Asylum and Immigration Tribunal (Procedure) Rules 2005.

I make such order pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008.

Signed.....
Upper Tribunal Judge Hanson

Dated 22 February 2021