



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal number: PA/11663/2019 (V)

THE IMMIGRATION ACTS

Heard Remotely at Manchester CJC
On 18 December 2020

Decision & Reasons Promulgated
On 13 January 2021

Before

UPPER TRIBUNAL JUDGE PICKUP

Between

GS

(ANONYMITY ORDER MADE)

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

DECISION AND REASONS (V)

For the appellant: Not legally represented

For the Respondent: Mr A Tan, Senior Presenting Officer

This has been a remote hearing which has been consented to by the parties. The form of remote hearing was video by Skype (V). A face to face hearing was not held because it was not practicable and all issues could be determined in a remote hearing. At the conclusion of the hearing I reserved my decisions and reasons, which I now give. The order made is described at the end of these reasons.

1. The appellant, who is an Iraqi national of Kurdish ethnicity emanating from the IKR, with date of birth given as 1.2.83, has appealed with permission to the Upper Tribunal against the decision of the First-tier Tribunal promulgated

22.4.20, dismissing on all grounds his appeal against the decision of the Secretary of State, dated 14.11.19, to refuse his claim for international protection.

2. Although at his request an interpreter in Kurdish Sorani was provided for the Upper Tribunal appeal hearing, there was no (remote) attendance by or on behalf of the appellant. I am satisfied that he was sent email notification of the hearing date on 10.11.20 to the email address he provided, as recorded below. In the premises, I was satisfied that it was consistent with the Tribunal's overriding objectives to deal with cases fairly and justly to proceed with the appeal hearing.
3. In summary, the grounds submit (i) that the refusal of the appellant's adjournment request was procedurally unfair; and (ii) that it was procedurally unfair that he was unable to respond to the case against him because he had no legal representation.
4. Permission to appeal to the Upper Tribunal was refused by the First-tier Tribunal on 29.6.20. However, when the application was renewed to the Upper Tribunal, Upper Tribunal Judge Blundell granted permission on 11.8.20, considering that "where no reasons were given for refusing the adjournment request, the only proper course is to grant permission on that point."
5. I have carefully considered the decision of the First-tier Tribunal in the light of the submissions and the grounds of application for permission to appeal to the Upper Tribunal.
6. In his somewhat rambling grounds, the appellant explained that at the outset of the First-tier Tribunal appeal hearing he mentioned to the judge "that I might have a legal representative to help me preparing my case to the tribunal if I can get the hearing adjourned so they can have more time to prepare the case." The application was refused.
7. It appears from [28] of the impugned decision that in the appellant's closing submissions he made a further application for adjournment, which was also refused. No reasons are recorded in the decision itself for either the request for an adjournment or its refusal.
8. The relevant history is as follows:
 - i. the appellant arrived in the UK on 24.6.19 and claimed asylum the following day.
 - ii. However, he had been in Greece for some 45 days, leaving before his asylum claim was determined.
 - iii. The respondent's refusal decision was made on 14.11.19.

- iv. On 28.11.19 Broudie, Jackson Canter Solicitors lodged the appellant's appeal to the First-tier Tribunal. In that document, the appellant's address was given as 232 Car Bank Street, Atherton.
- v. On 29.11.19 the appellant and his then legal representatives were notified in writing that there would be a pre-hearing review on 7.1.20 with the substantive appeal hearing to take place on 21.1.20. The notice was accompanied with a Reply Notice which should have been returned to the Tribunal by 3.1.20. The notice of the pre-hearing review was sent to the appellant at the address provided for him in Atherton.
- vi. On 4.12.19, Broudie Jackson Canter Solicitors advised the Tribunal that they no longer represented the appellant.
- vii. The notice of the pre-hearing review was returned to the First-tier Tribunal on 11.12.19 with the envelope marked by Royal Mail as 'no such address'.
- viii. At the pre-trial review on 7.1.20 it was noted that no Reply Notice had been received.
- ix. Following the pre-trial review, directions were issued on 9.1.20, confirming the substantive hearing date of 21.1.20, and including a requirement for the appellant to notify the Tribunal of his current residential address, provide an indexed and paginated bundle, and translated copies of documents he had submitted as part of his claim.
- x. The First-tier Tribunal appeal hearing took place as scheduled, on 21.1.20 and the appellant attended in person.
- xi. The decision of the First-tier Tribunal dismissing his appeal was sent to the appellant by post on 22.4.20.
- xii. On 22.4.20, the Tribunal wrote to the appellant following his telephone call advising that the house number of 232 is not correct. He was advised to provide his correct address in writing.
- xiii. In response, he emailed on 28.4.20 to state that the correct house number is 223. The Tribunal's case file was amended with the correct address. The email he used was goranlawyer07@gmail.com.
- xiv. The decision of the First-tier Tribunal dismissing the appeal was then sent to him at the corrected address on 29.4.20.
- xv. On 6.5.20 the appellant made an application for permission to appeal to the Upper Tribunal. He did so without legal representation.

- xvi. On 9.7.20 the appellant was notified by email to the address he had provided that the First-tier Tribunal had refused his application for permission to appeal.
 - xvii. On 3.8.20 the appellant lodged an out of time application to the Upper Tribunal for permission to appeal, stating that he only received the notice of refusal on 25.7.20. He made this further application without legal representation.
 - xviii. In granting permission to appeal on 11.8.20, the Upper Tribunal did not address the fact that the renewed application was made out of time.
9. First-tier Tribunal Judge Davies has provided a typed Record of Proceedings of the hearing on 21.1.20. This records that at the outset of the hearing the appellant stated that he was not ready to proceed because he was not legally represented. The record indicates that the judge considered that the appellant had had ample time to obtain a representative and, therefore, refused the application. The record also confirms that at the end of his submissions the appellant stated "I need more time to present my case." The application was again refused.
10. In normal circumstances, if the appellant had any difficulties either in preparing his case or in obtaining legal representation, he should have made that clear in his Reply Notice, which contains a section headed, 'More time needed to prepare for full hearing.' However, it appears he did not receive that notice, sent to an apparently incorrect address provided in the Notice and Grounds of Appeal lodged by his then legal representatives. The notice was returned undelivered.
11. However, I am satisfied that the appellant must have known from some time in December 2019, if not from late November, of the scheduled appeal date of 21.1.20. His attendance in person at the appeal hearing confirms that knowledge. It must also be the case that he was aware by early December 2019 that he had parted ways with the legal representatives who submitted his appeal against the respondent's refusal decision on 28.11.19. He does not suggest that they did not inform him of the hearing date following receipt of the Tribunal's correspondence of 29.11.19 advising of the pre-hearing review and the date for the scheduled substantive appeal.
12. Despite appealing on the grounds that he was not ready for the appeal hearing because he was without legal representation, I note that the appellant was able to make application for permission to appeal to the Upper Tribunal and to renew that application to the Upper Tribunal following the refusal by the First-tier Tribunal, drafting himself his grounds. He was able to do that without legal representation and I also note that he continues to be unrepresented.
13. I am satisfied, as was Judge Davies, that the appellant had ample opportunity to obtain legal representation and present his case. He is himself a lawyer by

profession and describes himself in practice in Iraq as efficient and with a good reputation. Given that he did have legal representation until early December 2019, it must follow that he understood how to obtain legal representation. His application for an adjournment did not provide any reasons why he then felt he needed legal representation. Neither was it been explained why he was not prepared for the hearing of which he had several weeks notice. His adjournment application was in general terms and without specificity as to reasons. Neither did he explain why he did not obtain replacement legal representation after parting ways with Broudie Jackson Canter. The grounds as drafted continue to fail to answer these obvious questions. The fact that he continues to pursue his case before the Upper Tribunal without legal representation suggests that he had no real intention to be legally represented at the First-tier Tribunal. This Tribunal is driven to the conclusion that the grounds of appeal are without merit.

14. As noted above, the appellant did not attend the appeal hearing and failed to respond to the notice of hearing sent by email and the joining instructions for the Skype remote hearing sent to the same email address on 10.11.20. The prolonging of the appeal process may simply be a time-wasting exercise in an effort to prevent removal. However, I do not dismiss the appeal on that ground and disregard it for the purpose of determining whether there was an error of law in the making of the decision of the First-tier Tribunal.
15. In the circumstances and for the reasons set out above, I can find no material error of law in the decision of the First-tier Tribunal.

Decision

The appeal of the appellant to the Upper Tribunal is dismissed.

The decision of the First-tier Tribunal stands and the appeal remains dismissed on all grounds.

I make no order for costs.

Signed: *DMW Pickup*

Upper Tribunal Judge Pickup

Date: 18 December 2020

Anonymity Direction

I am satisfied, having had regard to the guidance in the Presidential Guidance Note No 1 of 2013: Anonymity Orders, that it would be appropriate to make an order in

accordance with Rules 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 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.”

Signed: *DMW Pickup*

Upper Tribunal Judge Pickup

Date: 18 December 2020