



**Upper Tribunal
(Immigration and Asylum Chamber)
Number: AA/09626/2014**

Appeal

**AA/07352/2014
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AA/07957/2014**

THE IMMIGRATION ACTS

Heard at North Shields

Decision and Reasons

Promulgated

On 5 February 2016

On 2 March 2016

**Prepared on 10 February
2016**

Before

DEPUTY UPPER TRIBUNAL JUDGE JM HOLMES

Between

N. A.

S. A.

M. A.

D. A.

A. A.

A. H.

(ANONYMITY DIRECTION MADE)

Appellants

And

**THE SECRETARY OF STATE FOR THE HOME
DEPARTMENT**

Respondent

Representation:

For the Appellant: Ms Brakaj, Solicitor, Iris Law Firm

For the Respondent: Mr Kingham, Home Office Presenting Officer

DECISION AND REASONS

1. The Appellants are citizens of Iraq, who claimed asylum upon a variety of dates following legitimate entry to the UK. The applications of the First to Fifth Appellants were refused on 9 September 2014, when decisions to refuse to vary their leave were made, together with decisions to remove them from the UK. The application made by the Sixth Appellant (the mother of the Second Appellant) was refused on 26 September 2014, when a decision to refuse to vary her leave was also made, together with a decision to remove her from the UK.
2. The Appellants duly appealed against those immigration decisions and their appeals were linked for hearing as raising common issues of fact, and in due course they were heard together by First Tier Tribunal Judge Fisher. The appeals were each dismissed in a decision promulgated on 1 June 2015 which roundly rejected as untrue the account of their experiences in Iraq that had been offered by the First, Second and Sixth Appellants.
3. The Appellants lodged applications with the First Tier Tribunal for permission to appeal, which were refused by First Tier Tribunal Judge Shimmin on 25 June 2015. He was satisfied that a cogent and fully reasoned analysis of the evidence had been provided to the Appellants, which dealt adequately with the expert evidence relied upon, and concluded that the factual account advanced by the First, Second and Sixth Appellants was not credible. Given those findings he concluded that the Judge had no proper basis upon which to depart from the existing country guidance, and was therefore bound to dismiss the appeals.
4. The Appellants renewed their applications for permission to appeal to the Upper Tribunal relying upon identical grounds to those advanced to the First Tier Tribunal. Their applications were granted by Upper Tribunal Judge Perkins on 20 August 2015 in the following terms;
“The decision to dismiss their appeals against decisions to remove them brought on grounds that they are entitled to international protection is far from careless and I have read it several times before granting permission. It might stand up to the Appellants’ attack. Nevertheless I give permission to appeal on each ground raised. I am particularly concerned that adverse credibility findings may have been made without proper regard to the background material (ground 11 of the renewed grounds) and that insufficient regard has been

shown for changes in Iraq (ground 6 of the renewed grounds)."

5. The Respondent filed a Rule 24 response dated 2 September 2015 in which she pointed to the adverse findings of fact made by Judge Fisher, which she argued were entirely adequate to dispose of the appeal in the light of the guidance to be found in HM & Others (Article 15c) Iraq CG [2012] UKUT 409. She argued that the Appellants had failed to identify any background evidence that was before the Judge that would have warranted his departure from that guidance.
6. Thus the matter comes before me.

The grounds of appeal

7. The grounds are not well drafted, and in my judgement the draftsman has fallen into all of the traps identified by the Upper Tribunal in VV (grounds of appeal) Lithuania [2016] UKUT 53, and Nixon (permission to appeal; grounds) [2014] UKUT 368.
8. As Upper Tribunal Judge Perkins observed, this was far from being a careless decision. Having had the benefit of hearing Ms Brakaj's submissions upon paragraph 11 of the grounds I am satisfied that there is no merit in the unspecified complaint that the evidence of the Appellants was credible when assessed against the background evidence that had been placed before the Judge. Despite being given every opportunity to do so, she was unable to substantiate that complaint.
9. Thus I am satisfied that the grounds fail to identify with any degree of specificity any arguable error of law with the Judge's rejection of the First Appellant's account of events at the hospital where he worked in July 2014 as untrue. That rejection was entirely adequately reasoned, and it was well open to the Judge given the flaws in the First Appellant's own evidence that the Judge identified [34-36].
10. The same point applies to the Judge's rejection of the Second Appellant's account as untrue. Again that rejection was adequately reasoned, and again it was well open to the Judge given the flaws in the Second Appellant's evidence that the Judge identified [37-39]. I merely note that documents she had produced in evidence recorded that she had been promoted to a more senior post in February 2007, some time after she had claimed to have left Iraq for Syria as a result of perceiving an individual threat to her safety. There was simply no answer to that, and the Judge was

perfectly entitled to conclude that her promotion gave the lie to her account of when she had in truth left Iraq, and moreover that it was a part of the evidence with which Ms L had not engaged when offering her opinions.

11. Again the Judge's rejection of the Sixth Appellant's account as untrue was well open to him on the evidence, and it was adequately reasoned [40].
12. The Appellants had relied upon the opinion evidence of Ms L to advance an argument that as educated Sunni women who had prospered under the Ba'ath regime, the Second and Sixth Appellants faced a particular risk of harm from either Islamic extremists opposed to female equality and education, or, those who sought some form of revenge against those associated with that regime. The Judge noted that this argument had no support in what was then current country guidance; HM and HF (Iraq) [2013] EWCA Civ 1276, and dismissed it. He was perfectly correct to do so, and Ms Brakaj has been unable to identify any error in that decision. The analysis of the Upper Tribunal, upheld by the Court of Appeal, was that the evidence did not establish a real risk of serious harm, whether on asylum grounds, Article 3 grounds, or, under Article 15(c), for civilians from central Baghdad who are Sunni, or have Ba'ath Party connections. Those characteristics did not in themselves amount to "enhanced risk categories" under Article 15(c). Moreover, the subsequently published analysis of the Upper Tribunal in AA (Article 15(c)) Iraq CG [2015] UKUT 544 makes no alteration to that analysis for civilians from central Baghdad, even if the position has altered for other parts of the country. Since the decision in AA was promulgated on 30 September 2015, following hearings in May 2015, it follows that the background evidence reviewed by the Upper Tribunal in AA must have included all of the relevant evidence on the issue that was placed before the Judge.
13. The Judge was therefore faced with making an assessment of the risk of harm that would be faced by the members of an extended Sunni family upon their return to Iraq, when they had failed to establish to the applicable low standard of proof either that any of them had experienced any past persecution, or, that they faced any individual targeting in the future because of their connections, qualifications and expertise, or, that they fell into any of the "enhanced risk categories" under Article 15(c).
14. The Judge accepted that the First and Second Appellants were highly educated, and well qualified, and that they had held senior positions in Iraq. Whilst the Judge was well aware

that some members of the wider extended family had left Iraq (two of the Second Appellant's brothers), the First and Second Appellants had accepted in evidence that at least one of the First Appellant's brothers and his family remained in Baghdad. He was similarly well educated and qualified to the First Appellant albeit in a different discipline, and indeed he continued to hold a senior post at the same hospital at which the First Appellant had previously been employed.

15. In the circumstances, the grounds disclose no error of law in the Judge's analysis of the evidence and the conclusions he reached upon the credibility of the accounts given by the Appellants. The grounds are upon a proper analysis no more than a disagreement with his conclusions upon the evidence. As the decision in AA has most recently confirmed, despite any recent deterioration in the situation within some parts of Iraq, the Judge was perfectly correct to reject both the asylum, Article 3, and humanitarian protection appeals of this family. The grounds raised no complaint about the Judge's approach to Article 8.

Conclusion

16. In the circumstances I am not satisfied that any of the complaints advanced in the grounds of appeal have merit. I am not satisfied that the Appellants have established that there is any material error of law in the Tribunal's decision promulgated on 1 June 2015 that requires the decision to be set aside and remade.

DECISION

The Determination of the First Tier Tribunal which was promulgated on 1 June 2015 did not involve the making of an error of law in the decision to dismiss the appeal that requires that decision to be set aside and remade. The decision to dismiss the appeal is accordingly confirmed.

Direction regarding anonymity - Rule 14 Tribunal Procedure (Upper Tribunal) Rules 2008

Unless and until the Tribunal directs otherwise the Appellants are granted anonymity. No report of these proceedings shall directly or indirectly identify him. This direction applies both to the Appellants and to the Respondent. Failure to comply with this direction could lead to proceedings being brought for contempt of court.

Deputy Upper Tribunal Judge JM Holmes

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Dated: 10 February 2016