



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

Appeal Number: PA/13793/2016

THE IMMIGRATION ACTS

**Heard at Liverpool
On 18th September 2017**

**Decision & Reasons Promulgated
On 26th September 2017**

Before

DEPUTY UPPER TRIBUNAL JUDGE M A HALL

Between

**RAWAND ARIS MOHAMMED
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr H Pratt of WTB Solicitors

For the Respondent: Mr A McVeety, Senior Home Office Presenting Officer

DECISION AND REASONS

Introduction and Background

1. The Appellant appeals against the decision of Judge of the First-tier Tribunal M Davies promulgated on 24th January 2017.
2. The Appellant is a male citizen of Iraq born 11th October 1994. He originates from the Iraqi Kurdish Region (IKR). He claimed asylum in the

UK on the basis that he had been in a relationship with a girl to whom I shall refer as S, but his marriage proposals were refused as her family wanted her to marry a relative, which she did on 20th August 2015. After her marriage the Appellant continued to contact her and they met on two occasions, once when he gave her a lift in his taxi, and secondly on 14th September 2015 when he went to visit her at home. It was arranged that they would meet on the roof of the house while her husband was asleep. After the meeting, the Appellant left, and as he did so, the husband appeared on the roof and fired a gun at him. The asylum and human rights application was refused on 5th December 2016. The Appellant appealed to the FTT and the hearing took place on 11th January 2017. The FTT found the Appellant's claim to be "wholly unbelievable", describing the Appellant's evidence as "wholly incredible." The appeal was dismissed on all grounds.

3. The Appellant applied for permission to appeal to the Upper Tribunal. In summary it was contended that the FTT had made contradictory and unsustainable findings. The FTT had found that honour crimes do occur in the IKR, but went on to conclude that it was wholly incredible that two people would ignore the danger, and carry on a relationship outside marriage. It was clear that such relationships did occur, otherwise honour crimes would not occur. It was contended that the FTT assessment of credibility was flawed, and therefore the decision should be set aside.

4. Permission to appeal was granted by Judge Keane 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 gave weight to immaterial matters in characterising the relevant claims of the Appellant as 'wholly unbelievable' if paragraphs 47 and 49 of his decision were read. For the same reason it was arguably an error of law for the judge to characterise the appellant's conduct as 'wholly incredible' if paragraph 51 of the judge's decision was read. It was further an arguable error of law for the judge not to embark on a holistic assessment of all the evidence before arriving at a finding in respect of the Appellant's credibility. The judge stated in the first sentence at paragraph 50 of his decision that, 'as I do not believe the incident forming the basis of the Appellant's claim for asylum has occurred I do not accept that he was in hiding for one month before leaving Iraq with the assistance of an agent.

Overall, it was arguably an error of law for the judge to have been influenced by his own understanding as to what constituted reasonable or credible conduct. The application for permission is granted."

5. Following the grant of permission the Respondent lodged a response pursuant to rule 24 of the Tribunal Procedure (Upper Tribunal) Rules 2008. It was contended that the FTT had not erred in law but had comprehensively addressed the evidence and drawn reasonable inferences which were open to it to make. It was not accepted that the FTT had artificially compartmentalised its credibility findings.

6. Directions were issued that there should be a hearing before the Upper Tribunal to ascertain whether the FTT had erred in law such that the decision should be set aside.

The Upper Tribunal Hearing

7. Mr Pratt relied upon the grounds upon which permission to appeal had been granted, and the grant of permission. Mr Pratt submitted that the FTT had given no adequate reasons for the conclusions reached. The FTT had given an opinion as to what was believable conduct, rather than assessing and weighing up the Appellant's evidence. Mr Pratt pointed out that what might seem incredible to a person in the UK, might be considered completely differently by a person living in the IKR.
8. Mr McVeety submitted that the FTT had made findings which were open to it to make, and had considered the background evidence and was perfectly entitled to reach the conclusion that the Appellant's account was incredible.
9. By way of response Mr Pratt contended that the FTT had failed to give adequate reasons for findings, and therefore the decision should be set aside in its entirety.
10. At the conclusion of oral submissions I reserved my decision.

My Conclusions and Reasons

11. For ease of reference I set out below the headnote to Budhathoki (reasons for decision) [2014] UKUT 00341 (IAC);

"It is generally unnecessary and unhelpful for First-tier Tribunal judgments to rehearse every detail or issue raised in a case. This leads to judgments becoming overly long and confused and is not a proportionate approach to deciding cases. It is, however, necessary for judges to identify and resolve key conflicts in the evidence and explain in clear and brief terms their reasons, so that the parties can understand why they have won or lost."
12. It is common ground that the central issue in this appeal was credibility. The FTT accepted that honour crimes occurred in the IKR, and this is expressed in paragraphs 46 and 47. This does not mean that it is an error of law to find the Appellant's account incredible, simply because honour crimes do occur in the IKR.
13. It is clear that the FTT did not believe the Appellant's account.
14. The issue is whether the FTT has given adequate reasons, so that the Appellant can understand, from reading the decision, why his appeal has been dismissed.
15. In my view the FTT has provided reasons which are adequate and sustainable and explain why the Appellant's account was not believed.

16. At paragraph 49 the FTT finds it incredible, that the Appellant and S, knowing the danger involved in a married woman having a relationship with another man, would arrange to meet on the roof of S's house, while her husband was asleep in the house. I find that the FTT was entitled to find this claim to be incredible. The FTT was not given any adequate explanation why the Appellant and S decide to meet at her home, in the knowledge that her husband was in the home.
17. The FTT noted the Appellant gave conflicting evidence as to the circumstances of the meeting, stating that the meeting took place at 3am, but then in oral evidence, stating that S sent him a text at 2am to confirm she was on the rooftop. It was open to the FTT to find it unbelievable that S would wait for an hour on the rooftop before meeting the Appellant, knowing that her husband was asleep in the house.
18. In my view it was also open to the FTT to find the Appellant's claim not credible, in relation to the claim that after he left the rooftop, the husband appeared on the roof and fired a gun at him.
19. The claimed meeting and the firing of a weapon led to the Appellant going into hiding and subsequently leaving the IKR. It is not the case that the FTT has not considered the evidence in the round. The FTT was entitled to find that as it was not accepted that the claimed meeting on the rooftop had taken place, it followed that it was not accepted that the Appellant was in hiding for a month before leaving Iraq.
20. I do not consider that the FTT gave weight to immaterial matters and I do not find that the FTT was influenced by its own understanding as to what constituted reasonable or credible conduct. In my view it is clear from reading the decision why the Appellant was not believed. I note that there was no challenge to the adverse credibility findings made by the FTT in relation to the Appellant's failure to claim asylum in Austria, Germany or France.

Notice of Decision

The decision of the FTT does not disclose a material error of law. I do not set aside the decision. The appeal is dismissed.

Anonymity

There has been no request for anonymity made to the Upper Tribunal. The FTT made no anonymity direction. I do not see the need to make an anonymity order.

Signed

Date

Deputy Upper Tribunal Judge M A Hall

19th September 2017

**TO THE RESPONDENT
FEE AWARD**

The appeal is dismissed. There is no fee award.

Signed

Date

Deputy Upper Tribunal Judge M A Hall

19th September 2017