



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

Appeal Number: PA/03863/2017

THE IMMIGRATION ACTS

**Heard at Field House
On 2nd November 2018**

**Decision & Reasons
Promulgated
On 16th November 2018**

Before

DEPUTY UPPER TRIBUNAL JUDGE ZUCKER

Between

**MR DMO
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr E Divaris, Counsel instructed by Barnes Harrild & Dyer
Solicitors

For the Respondent: Mr C Avery, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The Appellant is a citizen of Iraq of Kurdish ethnicity whose date of birth is recorded as 26th April 1992. On 5th October 2016 he made application for international protection as a refugee. On 5th April 2017 a decision was

made to refuse the application. The Appellant appealed. His appeal was heard on 23rd April 2018 by Judge of the First-tier Tribunal AA Wilson sitting at Hatton Cross.

Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008

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 their family. This direction applies both to the Appellant and to the Respondent. Failure to comply with this direction could lead to contempt of court proceedings.

2. In summary it was the Appellant's case that he had abandoned the faith of his birth and had engaged with Raëlism. Judge Wilson dismissed the appeal. Not content with that decision by Notice dated 18th May 2018 the Appellant made application for permission to appeal to the Upper Tribunal. On 31st May 2018 Judge of the First-tier Tribunal Farrelly refused the application for permission to appeal but on a renewed application to the Upper Tribunal Upper Tribunal, Judge King, on 27th September 2018, granted permission.
3. The substance of the grounds was that there were inadequate findings on the part of the judge and that there was a fundamental flaw in the reasoning because having accepted that the Appellant had "fallen out with Salafi Islam" he did not consider what the effect of that was without more but rather considered that as the Appellant had not adopted any new faith he would not be at risk. That was fundamentally flawed and was in my view a material error of law.
4. As it is Mr Avery quite rightly conceded that the Decision and Reasons could not stand. It is fundamental to any party to proceedings that they should understand why they have not succeeded or why they have got the decision that they have. This decision is so full of typographical errors that in parts it is impossible to understand what the judge is talking about. It may be that he has used some kind of transcription software such as Dragon Dictate or the like but has not then proofread the decision, as an example at paragraph 13 he says:

"He then described how he travels to his mother's house by taxi. Question 202 of the interview which is a long open-ended replied by the appellant gives a dated - 20 January 2015 - he sets out that he was then at his mother's house the sun four months. He then stated his brother crying his uncles were aware that he was living with his mother were threatening to kill him as at that point between him and his brother may arrangements for him to escape firstly to Irbil and then from Iraq." (sic)

There are other like sentences.

5. In the event it was agreed by the parties that if I were to find, as I have, that there was an error of law, the proper course was for this case to be remitted to the First-tier Tribunal to be heard again by a judge other than Judge Wilson. Accordingly, I direct as follows: the decision of the First-tier Tribunal be set aside to be remade in the First-tier Tribunal at Hatton Cross with a Kurdish Sorani interpreter. The time estimate for the remitted appeal would be for the Resident Judge at Hatton Cross though the default is four hours for a remitted asylum claim.

Notice of Decision

The appeal to the Upper Tribunal is allowed. The decision of the First-tier Tribunal is set aside to be remade in the First-tier.

Signed

Date: 9 November 2018

A handwritten signature in black ink, appearing to be 'NZ' followed by a wavy line.

Deputy Upper Tribunal Judge Zucker