



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

Appeal Number: PA/05111/2016

THE IMMIGRATION ACTS

**Heard at Manchester
On 13 February 2018**

**Decision & Reasons Promulgated
On 5 April 2018**

Before

UPPER TRIBUNAL JUDGE HANSON

Between

MAI

(anonymity direction made)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr G Brown instructed by Citizens Advice Bureau (Bolton).
For the Respondent: Mr C Bates – Senior Home Office Presenting Officer.

DECISION AND REASONS

1. The appellant appeals with permission against a decision of First-tier Tribunal Judge Price promulgated on 30 March 2017 in which the Judge dismissed the appellant's appeal on protection and human rights grounds.

Background

2. The appellant is a citizen of Iraq born on [] 1991 who claimed international protection on the basis of his fear that if returned to Iraq he will face persecution by IS on account of an imputed political opinion. The respondent did not find the appellants claim to be credible and refused his application for any form of leave to remain in the United Kingdom.
3. Having considered the evidence, the Judge did not find the appellant to be a credible witness noting that he provided two very different accounts regarding events leading up to his arrival in the UK and his employment as a policeman. The Judge found different accounts provided in his screening interview and his asylum interview. In the screening interview the appellant claimed that he had worked for week as a policeman although in his asylum interview he claimed to have worked for nearly 15 months before he was arrested by IS.
4. The Judge found the appellants claim to have been released after ten months of torture by IS to be implausible against the background information, especially in light of the extensive nature of violence and gross violations and abuses of human rights employed by this group. The Judge noted the appellant also failed to mention this aspect of his account in his screening interview.
5. The Judge found the appellant's account of his escape from his home area after release by IS to be internally inconsistent within his asylum interview as was his alleged reasons for fleeing in Iraq. The Judge found the appellant's account of his journey from Iraq also inconsistent.
6. The Judge makes findings in relation to documents provided to support the appellants claim at [44 - 45]. The appellant had claimed three documents were sent to him whilst he was in the United Kingdom by his paternal uncle. The three documents are said to be an Iraqi ID card, Jansiyya ID and Police ID. The documents were sent to the National Document Fraud Unit and a report from this organisation has been provided concluding two of the documents were counterfeits and could not be relied upon although the Unit was 'unable to conclude on the authenticity' of the police ID. The Judge noted the only evidence to support the reliability of the documents is that of the appellant himself who was not found to be a credible witness and who had not adduced any independent evidence to assert the reliability of the documents despite being aware since 10 May 2016 that the authenticity of the same was in issue. The Judge did not, therefore, attach any weight to the three documents.
7. The Judge did not find the appellant was a police officer who was detained by IS and released, did not find the appellant to be a credible witness, did not attach any weight to his police identity document, and did not find the appellant to be at greater risk of persecution on return to Iraq than any other civilian.

8. The Judge noted it was not disputed the appellant originated from a contested area and went on to consider the case of **AA (article 15(c)) Iraq CG** [2015] UKUT 544 when deciding if the appellant could be returned to Iraq and relocate within Iraq. The appellant's evidence is that he has a valid ID document and although the Judge found the documents provided could not be relied upon, the Judge found this did not mean the appellant is not able to obtain a valid ID document to facilitate his return.
9. The Judge summarises his findings in relation to return to the IKR in the following terms:
 50. The Appellant does not originate from this area and cannot be returned directly. However, I do not find that it will be unduly harsh upon the Appellant to relocate to the IKR and travel via Baghdad. As a Kurd the Appellant will be entitled to 10 days entry into the IKR. The Appellant has not stated that he cannot get the relevant documents required to facilitate his travel. Indeed, it is his evidence that he already has valid identity documents. I note that the Appellant does not speak Arabic and has not been to Baghdad. However, I do not find this will prevent him from travelling to Erbil by air from Baghdad. I have made a finding that he is not at an individual risk from IS and that he is of no interest to them. He is a young Kurdish healthy male, who has shown sufficient resourcefulness to travel to the UK. The Appellant claims that he has already been refused entry into the IKR, this request was made on his behalf by the Sheikh. I do not find the Appellant to be a credible witness, I do not accept this claim and do not find that the Appellant has already been refused entry to the IKR. On balance, I find that the Appellant can reasonably be expected to stay in the IKR.
 51. I find the Appellant has not discharged, to the lower burden of proof, of having a well-founded fear of persecution for a Convention reason. I do not find that the Appellants removal would cause the United Kingdom to be in breach of his obligations under the 1951 Convention.
10. The Judge found it would not be unduly harsh for the appellant to relocate. In accordance with the finding the appellant would not face a real risk return, his claim pursuant to Articles 2 and 3 was refused. The Judge notes the appellant did not raise an article 8 appeal.
11. The appellant sought permission to appeal which was initially refused by another judge of the First-tier Tribunal but renewed to the Upper Tribunal. Permission was granted by the Upper Tribunal on 12 October 2017.

Error of law

The submissions

12. Mr Brown, on behalf of the appellant, submitted that in relation to the errors identified by the Judge by reference to the screening interview

these matters should have been put to the appellant as he was not represented. It was argued that there was more than one interpretation of what was said at the interview. It was also submitted the Judge failed to give adequate consideration to the Court of Appeal decision in **AA (Iraq) v Secretary State the Home Department** [2017] EWCA Civ 944 regarding a CSID and the feasibility of return.

13. On behalf of the Secretary of State Mr Bates noted the appellant had had legal representation until very late in the proceedings. Mr Bates also referred to a letter from the Citizens Advice Bureau in Bolton dated 10 March 2016 setting out a response to the appellants asylum interview of 8 February 2016 submitting corrections having had the opportunity to discuss the interview with the appellant via an interpreter and requesting a copy of the screening interview to verify answers given by their client at the substantive interview. It was submitted this clearly demonstrated not only that the appellant was represented at the time but also that these issues were being investigated and therefore did not require the Judge to discuss the matter again.
14. Mr Bates submitted that the appellant at the hearing denied there are any discrepancies in the interview but was fully aware of the case against him.

My Findings

15. The appellant has failed to make out any arguable legal error material to the decision by the Judge that his claim lacks credibility. I do not find any procedural irregularity made out in the way in which the Judge considered the evidence from all sources including the screening and asylum interview. Whilst the screening interview is by its nature not the document in which an applicant sets out his claim in full detail it is reasonable to expect that a person answering questions will tell the truth. The screening interview occurred on 20 November 2015 at 13:20 hours a day after the appellant had arrived in the United Kingdom, indicating that he had the opportunity for some rest between arrival, being encountered, and the start of the asylum process.
16. Discrepancies identified by the Judge between the appellant's accounts given in the interviews have not been shown to be based upon a misunderstanding of the evidence.
17. It is not made out that the Judge unfairly drew adverse inference from the failure to provide details at the screening interview. It is clear that the appellant had the benefit of legal advice from the Citizens Advice Bureau from the outset as copies of the initial directions of 18 July 2016 were sent to them including notice of the First-tier Tribunal Case Management Review hearing. It appears on the documents sent that it was only from the notice of directions sent on 23 December 2016 that the representatives no longer appear, having apparently withdrawn. At the relevant time when the evidence was being disclosed the appellant therefore had the benefit of legal representation. The CAB

placed themselves back on record in relation to the appellant from 20 October 2017.

18. In relation to the question of the ability of the appellant to obtain documents to facilitate return to Iraq, the Judge noted the appellants claim to have a valid Iraqi ID which is the document that has replaced the CSID, and which contains information relating to the holder stored in a chip, as a means of not only identification but also accessing services in Iraq. The appellant had claimed to have obtained documents from Iraq via an uncle. The Judge found that he had the means to access documents to enable him to obtain either his ID card or a CSID; especially having contact with his family who already provided documents relied upon by him.
19. I do not find the suggestion in the grant of permission that the Judge was requiring corroboration to be made out. The findings do not support an assertion of arguable legal error by the Judge refusing to accept the appellants claim unless corroborative evidence was provided which, if accepted, may amount to arguable legal error.
20. I do not find it made out that the appellant will not have access to the appropriate documents to enable him to return to Iraq and gain access to Baghdad.
21. The case of **AA (Iraq)** speaks about the requirements for an individual to return to and settle in Baghdad. The Judge does not make a finding that the appellant will be able to settle in Baghdad and effectively finds that it would be unreasonable to expect him to internally relocate to Baghdad as he does not speak Arabic and has no experience of living in that city. It was not claimed the appellant will have a sponsor. Such a finding is in accordance with the evidence.
22. The Judge finds that the appellant can relocate to the IKR via Baghdad. It is known that returnees receive a grant from the Secretary of State which includes an element cover the cost of their travel to their home area. The appellant lived in an area outside Mosul which is no longer under the control of IS following their defeat by the Iraqi government and Kurdish forces. The case law reflects that those returning to Iraq are treated as IDP's by the Iraqi authorities and can receive a grant of financial assistance on return too.
23. This Tribunal has judicial knowledge of the fact there are regular flights from Baghdad to the airports in the IKR for around \$96-\$108 which would fall within the definition of the cost of travel from the point of return to the appellant's home area.
24. As a Kurd it was not made out that the appellant will be denied access to the IKR especially as he will be able to prove he is who he claims to be by the use of the documents used to facilitate his return, such as his Iraqi ID card or CSID which it is been found he is able to obtain.
25. The claim by the Appellant that he faces a real risk was found to lack credibility. It is clear based upon the appellant's own evidence that he has family members in Iraq including a mother, sister, paternal uncle and cousin, indicating that there are family members, some who have provided assistance to in the past, who will be able to assist in his return and reintegration into Iraqi society. It was not made out before

the Judge that the appellant will face destitution or a situation that entitles him to a grant of international protection.

26. Whilst during the course of the hearing before the Upper Tribunal it appeared it may be arguable that the Judge failed to adequately analyse the situation pursuant to AA (Iraq) a closer and more detailed examination of the findings, evidence, and country information, does not establish any arguable legal error material to the decision to dismiss the appeal.
27. Whilst the appellant may have a subjective fear of return to Iraq, as noted by the Judge, such fear has not been made out to be objectively well-founded. The desire for a more favourable outcome or disagreement with findings made do not arguably amount to arguable legal error, per se. The Court of Appeal has reminded us that the challenge in an appeal of this nature is to the decision. That decision is to dismiss the appeal. The appellant fails to make out any arguable legal error in such a finding sufficient to warrant the Upper Tribunal interfering with this decision.

Decision

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

Anonymity.

29. 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 the 4 April 2018