



**Upper Tribunal  
(Immigration and Asylum Chamber)**  
PA/13661/2017

Appeal Number:

**THE IMMIGRATION ACTS**

**Heard at North Shields  
On 21 September 2018**

**Decision and Reasons  
Promulgated  
On 26 September 2018**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE JM HOLMES**

**Between**

**R. M.  
(ANONYMITY DIRECTION MADE)**

Appellant

**And**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Ms Brakaj, Solicitor, Iris Law

For the Respondent: Mr Duffy, Home Office Presenting Officer

**DECISION AND REASONS**

1. The Appellant, a citizen of Iraq, entered the United Kingdom illegally on an unknown date in 2015, and claimed asylum on the basis that he faced a real risk of

harm at the hands of members of his family, and, Daesh in his home area of Kirkuk. The Respondent refused that claim on 15 December 2017.

2. An appeal against the decision to refuse a protection claim was heard and dismissed by First Tier Tribunal Judge Cope in a decision promulgated on 20 February 2018. In the course of that decision the Judge concluded that the Appellant had not told him the truth. He rejected as untrue the claim that the Appellant was at risk from members of his family, and concluded that with their assistance he could return to Iraq via Baghdad, and make a life for himself in safety in the KRG.
3. Permission to appeal was granted against the decision of Judge Cope by First tier Tribunal Judge Keane on 13 April 2018 on the basis the Judge had arguably made a procedural error. Since the Respondent had not formally placed in issue the Appellant's claim to have been born in Kirkuk, it was arguable that it was not open to the Judge to find that he was not.
4. Neither party has applied pursuant to Rule 15(2A) for permission to rely upon further evidence.
5. Thus the matter came before me.

#### The hearing

6. When the appeal was called on for hearing Ms Brakaj accepted that the only challenge raised in the grounds was to the decision upon the humanitarian protection appeal. The adverse credibility findings concerning the risk of harm said to be faced by the Appellant from members of his family were not challenged, and must stand.
7. As Ms Brakaj accepted, the difficulty with the grounds (as drafted) is that the author has entirely failed to engage with the fact that the Judge approached the question of the Appellant's origins within Iraq in the alternative. Thus, in paragraphs 97-106 of his decision he dealt with the Appellant's ability to relocate to the KRG to avoid the risk of harm he faced in his home area, from an internal armed conflict, if that home area were Kirkuk. (If his home area were the KRG, as the Judge believed to be the case, then the question of relocation to avoid the risk of internal armed conflict in the area of Kirkuk did not arise, because there was no such conflict within the KRG.)
8. Nor has the author of the grounds engaged with the Appellant's own claim at interview to have lived in the KRG in the past in the course of his employment.

9. Nor has the author of the grounds engaged with the fact that the Respondent made no formal concession of the Appellant's claim to have been born in Kirkuk - the only formal concessions made were that he is a Sunni, a Kurd, and a citizen of Iraq [RFR]. It was therefore always for the Appellant to establish where his home area in Iraq had been from time to time, albeit to the applicable low standard of proof.
10. It follows that I dismiss the appeal. The Judge's decision is consistent with the current country guidance to be found in AAH (Iraqi Kurds - internal relocation) Iraq CG [2018] UKUT 212 and AA (Iraq) [2017] EWCA Civ 944 and BA (Returns to Baghdad) Iraq CG [2017] UKUT 18.

## DECISION

The Determination of the First Tier Tribunal which was promulgated on 20 February 2018 contained no error of law in the dismissal of the Appellant's appeal which requires that decision to be set aside and remade, and it is accordingly confirmed.

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

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

### **Signed**

Deputy Upper Tribunal Judge JM Holmes  
Dated 21 September 2018

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke at the end, positioned to the right of the text.