



**Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: PA/00319/2019**

THE IMMIGRATION ACTS

**Heard at Manchester
On 8 August 2019**

**Decision & Reasons Promulgated
On 15 August 2019**

Before

DEPUTY UPPER TRIBUNAL JUDGE ALIS

Between

**MR AREAN JAMAL ALI
(NO ANONYMITY DIRECTION MADE)**

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

**Appellant
Respondent**

Representation:

For the Appellant: Ms Patel, Counsel, instructed by Broudie Jackson & Canter
For the Respondent: Ms Pettersen, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant is an Iraqi national from Kirkuk. He left Iraq on 10 September 2015 and made his way across Europe eventually claiming asylum in Finland, but this was refused. He travelled to Germany where he was arrested and detained before being released. He finally entered the United Kingdom on 12 December 2016 where he claimed asylum.
2. On 31 December 2018, the respondent refused his application and the appellant appealed on 14 January 2019 under section 82(1) of the Nationality, Immigration and Asylum Act 2002. His appeal was heard by Judge of the First-tier Tribunal Chowdhury and in a decision promulgated

on 11 April 2019 the Judge dismissed the appellant's appeal.

3. Permission to appeal was refused by Judge of the First-tier Tribunal Saffer on 16 May 2019 but Upper Tribunal Judge Grubb granted permission to appeal.
4. He found it was arguable the Judge had failed to properly apply the country guidance decisions of AA (Iraq) v Secretary of State for the Home Department [2017] EWCA Civ 944 and AAH (Iraqi Kurds-internal relocation) Iraq CG [2018] UKUT 00212 (IAC) in determining that the appellant would be able to obtain a CSID shortly after arriving in Iraq which would enable him to relocate to the IKR. This view took into account the Judge accepted the appellant came from Kirkuk, an area where article 15(c) existed, and had no male relatives to assist him.
5. Permission to appeal was granted on all grounds although Upper Tribunal Judge Grubb said that he would not have granted permission on the other grounds alone.
6. The respondent filed a Rule 24 response dated 16 July 2019 and submitted that the appellant had failed to demonstrate his CSID information was not available to him or alternatively he would be able to turn to his former police contacts in Iraq for help.
7. No anonymity direction is made.

SUBMISSIONS

8. Ms Patel adopted, in particular, paragraphs 12 to 24 of the grounds of appeal and submitted the Judge's reasoning on how the appellant could obtain a CSID was flawed. The Judge had accepted the appellant did not have access to the original CSID but concluded that because he had other documents on his mobile, it was likely he would have also stored his CSID information on his mobile phone. She submitted this was mere speculation and there was no logic to that finding bearing in mind she had already accepted he had lost his CSID in Europe. The Judge's other conclusion that he could obtain a CSID with assistance from former police colleagues was also flawed as she was unable to say who exactly would be in a position to provide this type of information. Without a CSID he would be unable to settle in the IKR and the Judge erred by not properly applying the findings and guidance in AAH.
9. With regard to the remaining grounds, she submitted in assessing credibility the Judge failed to have regard to the content of his witness statement and she submitted this error was linked to whether he could obtain a CSID.
10. Ms Pettersen opposed the application and submitted the Judge properly addressed the question of whether the appellant had access to CSID details and gave adequate reasons for finding that he did and that he could use this to obtain the CSID himself despite his claim to have been

refused at the Consulate. As for him obtaining the document in Iraq she accepted that it may be speculative to suggest that former colleagues, from a contested area, would be able to obtain the CSID for him. She further submitted the adverse credibility findings were open to the Judge and invited the Tribunal to dismiss the appeal.

FINDINGS ON ERROR IN LAW

11. The appellant had sought protection in this country having spent over 14 months travelling across Europe during which time he had applied for asylum in Finland and left that country and thereafter he had been detained in Germany.
12. The Judge considered his claim and in a detailed decision concluded:
 - (a) The appellant was a member of the Iraqi police force based on documents and photographs he had adduced.
 - (b) She rejected his claim that he was involved in Daesh/ISIS prisoners escaping from a police convoy.
 - (c) She rejected his claim that having been detained for questioning he was able to simply walk out of a police-building when his guard went for a coffee break. She rejected this claim having regard to country evidence about the country situation at that time.
 - (d) The appellant had had an asylum claim rejected in Finland and she rejected his claim that he had been unaware of the outcome as it was in Finnish.
 - (e) Section 8 of the Asylum and Immigration (Treatment of Claimants etc) Act 2004 applied.
 - (f) He had lost contact with male relatives in Iraq.
 - (g) He has a young family to support.
13. Having reached those findings, the Judge quite properly turned her mind to the issue of return and whether the appellant could be returned. It is in this area that permission to appeal was specifically given.
14. During submissions from the parties I indicated the two areas of the Judge's decision that needed to be considered. The first concerned whether the appellant could obtain a CSID in London and the second was whether he could obtain a CSID within a reasonable period of time in Iraq.
15. The Judge found at paragraph 68 and 71 he could obtain a CSID in Iraq because he was an educated man who had risen to a position of responsibility in the police force and he could re-establish contact with former police colleagues.
16. This finding must be considered against the guidance issued in AAH. I do not set out the full guidance herein, but I feel extracts of that decision will explain why I reached the findings I have in this appeal.

17. The Tribunal should ask itself:

- (a) Does the appellant have any other form of documentation, or information about the location of his entry in the civil register. An INC, passport, birth/marriage certificates or an expired CSID would all be of substantial assistance. For someone in possession of one or more of these documents the process should be straightforward. A laissez-passer should not be counted for these purposes: these can be issued without any other form of ID being available, are not of any assistance in ‘tracing back’ to the family record and are confiscated upon arrival at Baghdad.
- (b) The location of the relevant civil registry office. If it is in an area held, or formerly held, by ISIL, is it operational?
- (c) Are there male family members who would be able and willing to attend the civil registry with the appellant? Because the registration system is patrilineal it will be relevant to consider whether the relative is from the mother or father’s side. A maternal uncle in possession of his CSID would be able to assist in locating the original place of registration of the individual’s mother, and from there the trail would need to be followed to the place that her records were transferred upon marriage. It must also be borne in mind that a significant number of IDPs in Iraq are themselves undocumented; if that is the case it is unlikely that they could be of assistance.
- (d) For an Iraqi national returnee (P) of Kurdish origin in possession of a valid CSID or Iraqi passport, the journey from Baghdad to the IKR, whether by air or land, is affordable and practical and can be made without a real risk of P suffering persecution, serious harm, Article 3 ill treatment nor would any difficulties on the journey make relocation unduly harsh.
- (e) The appellant will face considerable difficulty in making the journey between Baghdad and the IKR by land without a CSID or valid passport. There are numerous checkpoints en route, including two checkpoints in the immediate vicinity of the airport. If the appellant has neither a CSID nor a valid passport there is a real risk of the appellant being detained at a checkpoint until such time as the security personnel are able to verify the appellant’s identity. It is not reasonable to require the appellant to travel between Baghdad and IKR by land absent the ability of the appellant to verify his identity at a checkpoint. This normally requires the attendance of a male family member and production of the appellant’s identity documents but may also be achieved by calling upon “connections” higher up in the chain of command.
- (f) For those without the assistance of family in the IKR the accommodation options are limited.
- (g) An appellant cannot work without a valid CSID.

- (h) If an appellant is from an area with a marked association with ISIL that may deter future employers.
 - (i) The Tribunal accepted that civil registries in the contested areas have been left in utter chaos and there is evidence that many documents have been either lost or destroyed.
 - (j) Applying through a consulate abroad for a CSID, the authorities will require the applicant to first make a statement explaining why he needs a CSID and attach this to his application form, which must countersigned by the head of the applicant's family and stamped by the consulate or embassy. He must then produce his Iraqi passport and proof of status in the country where he is applying, the name of a representative (proxy) in Iraq, an additional form completed by the head of the applicant's family verifying that the contents of his application form were true, four colour copies of his INC, and 10 colour photographs. Crucially the applicant must be able to produce something which can establish the location of his family's details in the civil register. This should be a CSID, an INC or birth certificate. If none of these are available to the applicant, he must supply the identity documents of his parents.
 - (k) If you are in Iraq, and have all of the required documents, in normal circumstances the process is straightforward and quick and should take no more than three days.
 - (l) The only way that a totally undocumented Iraqi could realistically hope to obtain a new CSID would be the attendance at the civil registry of a male family member prepared to vouch for him or her. The production of a CSID from, for instance, an uncle, would enable the Registrar to trace back through the record to find the individual's father, and in turn him.
18. If he did not have access to a CSID then I would have agreed with Ms Patel that he would not have been returnable because the Judge accepted he had lost contact with all male family members and any former colleagues must have come from a contested area and there was no evidence before the Judge that a former colleague was either alive or able to assist him. Following the guidance in AAH, it is unlikely he would have been able to obtain a CSID within a reasonable period of time bearing in mind he would have been returned to Baghdad. The guidance makes it clear that without a CSID, the appellant would face considerable difficulty in making the journey between Baghdad and the IKR by land because there is a real risk of him being detained at a checkpoint until such time as the security personnel are able to verify his identity. It is not reasonable to require the appellant to travel between Baghdad and IKR by land absent the ability of the appellant to verify his identity at a checkpoint.
19. However, a key finding in this appeal is the finding by the Judge in paragraph [63] of her decision that the appellant "either knows or has access to details or copies of his expired CSID and/or family register".

20. In assessing whether he had access to such information I find the Judge was entitled to take into account any positive or adverse credibility findings when making the above finding.
21. The Judge noted that the appellant had available to him personal information about himself and his involvement with the police force. The Judge placed weight on that evidence when accepting he was a member of the police force. The Judge found it was "remarkable and inconsistent with his behaviour as a whole that he had no record of his CSID or of his details in the family register in Iraq". The Judge was aware he had the document at some time since he left Iraq. It is this finding that Ms Patel has challenged as being speculative, but Ms Pettersen argued that this is effectively a disagreement with the Judge's findings.
22. The Judge has provided her reasons for why she was satisfied he had those details and for there to be an error such reasoning would have to be perverse. The Judge concluded he was not telling the truth about his CSID and gave adequate reasons for that finding. The finding is not perverse and is well-reasoned.
23. The Judge then had to ask herself whether this information would be sufficient to obtain a new CSID and again reference needs to be made to the guidance set out above in AAH. Applying the guidance above the appellant could appoint a proxy, such a lawyer, to deal with the formalities in Iraq and on the basis the appellant has been found to have access to his CSID information I find the Judge was entitled to find he would be able to go back to the Consulate in Manchester and provide the necessary information and be issued with a new CSID enabling him and his family to return to Iraq and, in particular, the IKR. The Judge noted he was educated and previously worked as a policeman and having rejected his account to have been involved in the escape of ISIS soldiers the conclusion he could be returned, via Baghdad, was open to the Judge.
24. There is no material error.

NOTICE OF DECISION

I dismiss the appeal and uphold the original decision.

Signed

Date 09/08/2019



Deputy Upper Tribunal Judge Alis

TO THE RESPONDENT
FEE AWARD

As I have dismissed the appeal no fee award can be made.

Signed

Date 09/08/2019



Deputy Upper Judge Alis