Upper Tribunal
(Immigration and Asylum Chamber) **Appeal Number: PA/10091/2018**

THE IMMIGRATION ACTS

Heard at North Shields	**Decision & Reasons Promulgated**
On 31 May 2019	**On 04 July 2019**

Before

DR H H STOREY
JUDGE OF THE UPPER TRIBUNAL

Between

AMIN ARFALI
(ANONYMITY DIRECTION NOT MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms L Brakaj, Legal Representative (Iris Law Firm) (Middlesbrough)
For the Respondent: Ms R Petterson, Home Office Presenting Officer

DECISION AND REASONS

1. The appellant a national of Iraq, has permission to challenge the decision of Judge Stone of the First-tier Tribunal (FtT) sent on 31 October 2018 dismissing his appeal against the decision made by the respondent on 6 August 2018 refusing his protection claim.

2. The grounds as amplified succinctly by Ms Brakaj raise two main points, it being contended that the judge erred (1) in failing to make clear or adequate finding in respect of the appellant's claimed risk of persecution from his own family based on their view that he had violated family honour by marrying a woman of his own choice when they had promised him to a

cousin; and (2) in failing to make any clear findings on whether he could obtain renewed CSID documentation so he could settle in the IKR.

3. I am not persuaded by ground (1). Its principal target is paragraph 64 wherein the judge states:

> "64. I find that the Appellant has not shown to the lower standard that he was subjected to persecution by his family in the IKR. His evidence on the issue lacks internal logic and consistency. He says that he was in a relationship with his wife for four years before his marriage but his family, who knew about the relationship one year into it, did nothing to stop the relationship until the marriage. This is inconsistent with the evidence that they would now kill him because of a breach family honour if he was returned to IKR. He continued to live with his family after they discovered his relationship with his wife for 3 years. He says he was shot, but produced no medical evidence of any such injury. I appreciate that no corroboration is required, but when the evidence is an alleged bullet wound, I would have expected to see a medical report."

4. Albeit brief, this paragraph identifies two shortcomings in the appellant's account of risk from his own family: an inconsistency in his account and an insufficiency of evidence to support it. The grounds fail to identify any error in relation to the identified inconsistency and in my judgment it was a material inconsistency. On the appellant's own account, his family had come to know about his relationship with his later wife at a time when he was still living at home and he had stated at Q130 :"[In those four years I was attached to my family…" Earlier the appellant had suggested that his family had allowed him to have the relationship whilst he was living at home because he did not do anything illegal or contrary to Islamic religion, but if they had reacted to the extent of attacking him during these four years, they clearly did not tolerate or accept it. Further, the appellant had provided no support for this aspect of his claim. The grounds aver that it was unreasonable of the judge to consider that the appellant could have obtained medical evidence to corroborate his claim to having sustained a bullet wound ("it is unclear how helpful medical evidence would have been in establishing the provenance of a gunshot wound from almost a decade ago"). I am not persuaded there was any unreasonableness. It is medically uncontroversial that bullet wounds leave scars that can be long-lasting or at least detectable. It is true, that even if the appellant had obtaining medical evidence confirming he had suffered a bullet wound a decade ago, that would not prove "provenance", but it may well have added significant weight to his account.
5. I would observe further that what the judge said at paragraph 64 has to be read in the context of the decision as a whole. The respondent had already raised several concerns about this aspect of his account in the refusal decision, including the appellant's failure to mention it in the SEF interview and his failure to explain, why, if it was a matter of family honour, his relatives who lived in several areas of Iraq would not have taken steps to harm him when he had moved to Kirkuk.

6. It is true that the judge's reasoning in relation to the other main plank of the appellant's claim – risk from ISIS - was much more detailed but that does not mean that the reasons given in paragraph 64 were legally flawed.

7. Ground 2 is linked to ground 1 but is still distinct because it concerns whether the judge was entitled, having rejected the appellant's account of risk on return from either his own family in the IKR or ISIS in Kirkuk (but having found nevertheless that he could not be returned to Kirkuk because it was generally unsafe), to find that he could relocate to the IKR. It is submitted that rejection of the appellant's account of risk of persecution from his family was insufficient to establish that his family would be able to support him (and his wife) in the IKR.

8. The judge's treatment of the issue is set out at paragraph 70-72:

> "70: The respondent has suggested that relocation to IKR was reasonable. Paragraph 17 of AA (Article 15(c)) Iraq CG [2015] UKUT 544 (IAC) stated that the Respondent would only return someone to IKR if they originated from there and their identity had been precleared by the KRG. Those conditions may apply to this Appellant.
>
> 71. AAH (Iraqi Kurds) internal relocation) Iraq CG UKUT 00212 (IAC) gives country guidance relevant to this appeal. It states that whether an appellant can obtain a replacement CSID within a reasonable time depends on a number of factors, which include:
>
> 71.1. Whether he has any other ID – the Appellant has a copy CSID;
>
> 71.2. Is the area held or formerly held by ISIS – Kirkuk is, and;
>
> 71.3 Are there any male family members who can support – the Appellant has family in IKR, but says he is estranged from them and is at risk of honour crime at their hands?
>
> 72. I find that on balance, the Appellant could be returned to the IKR."

9. Once again, it is important to consider what the judge said at paragraphs 70-72 in the context of the decision as a whole, particularly the reference in paragraph 71.3 to the appellant say[ing] he is estranged from [his family…" This links back to the appellant's own evidence as recorded at paragraph 17-18 as well as to the judge's summary of the submissions he received on the issue at paragraphs 43, 44 and 51 and 60. These demonstrate that the judge was fully aware that the appellant was claiming not just that his family wished to harm him but they would not support him. When these paragraphs are read together, it is sufficiently clear that the judge rejected the appellant's account of his family

circumstances in full, disbelieving both that they wished to harm him or that they could not support him.

10. I would observe that in my event the issues that arose in the context of relocation to the IKR were confined to whether he would have support in obtaining a CSID and

    whether he would have family support in relocating. On the former issue, the appellant had had a CSID previously (see paragraph 71.1) and on his own evidence had family members on his wife's side who would be able to assist in obtaining a new CSID. On the latter issue, applying the guidelines set out in **AAH**, the appellant was someone who could expect a positive response to his resettlement in the IKR: he was a former Peshmerga and had also had experience in running a business. Even if for some reason his own family would not assist, on his own evidence there was no reason why his wife's family in nearby Kirkuk could not arrange to assist him and his wife if necessary.

11. For the above reasons I conclude that the judge did not materially err in law and accordingly his decision must stand.

No anonymity direction is made.

Signed Date: 1 July 2019

Dr H H Storey
Judge of the Upper Tribunal