



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: PA/02639/2018

THE IMMIGRATION ACTS

Heard at Bradford  
On 25 February 2020

Decision & Reasons Promulgated  
On 6 March 2020

Before

UPPER TRIBUNAL JUDGE LANE

Between

MMH  
(ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Hussain, instructed by Bankfield Heath, solicitors  
For the Respondent: Mr Diwnycz, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant was born in the year 2000 and is a male citizen of Iraq. He is a Sunni Muslim and is of Kurdish ethnicity. It is a settled fact in these proceedings that, in October 2016 when ISIS invaded Kirkuk Province, the appellant's mother, father and sisters were killed by them. The appellant had appealed against the decision of the Secretary of State dated 7 February 2018 refusing his application for international

protection. The First-tier Tribunal, in a decision promulgated on 22 October 2018, dismissed the appeal. The appellant appealed to the Upper Tribunal (Deputy Upper Tribunal Judge Taylor) which, by a decision promulgated on 13 September 2019, set aside the First-tier Tribunal decision and directed a resumed hearing in the Upper Tribunal. A transfer order was made on 6 January 2020 and the resumed hearing took place before me at Bradford on 25 February 2020.

2. Since the initial hearing, new country guidance been made available by the Upper Tribunal in the case of *SMO, KSP & IM (Article 15(c); identity documents) Iraq CG [2019] UKUT 400 (IAC)*.
3. The appellant gave brief evidence and adopted his written statements as his evidence in chief. He was not cross examined. He was assisted by a Kurdish Sorani interpreter. The burden of proof is on the appellant. The standard of proof is whether there are substantial grounds for believing there to be a real risk that the appellant will suffer harm if returned to Iraq. The appellant's most recent statement confirms that he has no contact with anyone in Iraq. He believes that he may have aunts and uncles living in Baghdad or Basra but he has never met these individuals; he does not even know their names. Likewise, he believes that he may possibly have family on his father's side living in Hawija but he does not know the names or the whereabouts of these individuals.
4. I am aware that previous parts of the appellant's account of past events have been found by the First-tier Tribunal to be unreliable. In addition, the appellant has sought to rely upon a CSID identity document which the Secretary of State has reason to believe is a false document. Having said that, I am aware that the appellant is still a young man and that he left Iraq when he was a minor. I consider that it is reasonably likely that he does not know the names of aunts and uncles who did not live locally and whom he has never met. I find the appellant has no prospect of establishing contact with any of those individuals in Iraq. Likewise, I accept that the appellant does not know the volume and page number of his family records; the Tribunal in *SMO* held that there would be a only a small number of cases where an individual would not know these details but I accept that the appellant is one such case. I make these findings acknowledging that the appellant has previously shown that he is capable and willing to dissemble when it furthers his interests.
5. The latest country guidance indicates that, without a valid CSID card, which I find he does not possess, or family assistance in Iraq or volume/page number of his family records, this appellant will not be able to re-document himself either whilst still in the United Kingdom or within a reasonable time of returning to Baghdad. He will be able to enter Iraq on a *laissez passer* but that document will subsequently be of no use to him. I note from *SMO* that 'neither the Central Archive nor the assistance facilities for IDPs are likely to render documentation assistance to an undocumented returnee.' As he is not from Baghdad, he will be unable to obtain a new form INID card there whilst he will not be able safely to travel to his home area (Kirkuk) and provide the necessary biometrics at a registry there. As regards relocation to Baghdad, *SMO* provides that: 'Baghdad is generally safe for ordinary civilians but

whether it is safe for a particular returnee is a question of fact in the individual case. There are no on-entry sponsorship requirements for Baghdad but there are sponsorship requirements for residency. A documented individual of working age is likely to be able to satisfy those requirements.' The appellant will not be a documented individual. Moreover, he is unable to meet any sponsorship requirements in Baghdad as regards residency.

6. In the light of the observations and findings which I make above, I have concluded that, at the present time and possessing the characteristics which I have attributed to him, there is little, if any, prospect of the appellant obtaining necessary identity documentation before or within a reasonable period of returning to Iraq so as to enable him to either return safely to his home area or to relocate elsewhere, in particular to remain in Baghdad. I therefore find that his appeal must be allowed on humanitarian protection grounds. The appellant should be aware that that status may not pertain indefinitely and, should his own circumstances or those in Iraq alter, he may at some time in the future be expected to return to his country of nationality.

#### **Notice of Decision**

I have re-made the decision. The appellant's appeal is allowed on humanitarian protection grounds.

Signed

Date 26 February 2020

Upper Tribunal Judge Lane

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

Unless and until a Tribunal or court directs otherwise, the appellants are granted anonymity. No report of these proceedings shall directly or indirectly identify them or any member of their family. This direction applies both to the appellants and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.