



IAC-AH-SAR-V1

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

Appeal Number: PA/05445/2019

**THE IMMIGRATION ACTS**

**Heard at Birmingham Civil Justice Centre  
On 7 January 2020**

**Decision & Reasons  
Promulgated  
On 16 January 2020**

**Before**

**DR H H STOREY  
JUDGE OF THE UPPER TRIBUNAL**

**Between**

**ARAS [M]  
(ANONYMITY DIRECTION NOT MADE)**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr M Trevelyan of Oakmount Law Solicitors  
For the Respondent: Mrs H Aboni, Home Office Presenting Officer

**DECISION AND DIRECTIONS**

1. The appellant is a national of Iraq. In a decision sent on 20 August 2019, Judge Young-Harry of the First-tier Tribunal dismissed his appeal against the decision made by the respondent on 10 May 2019 to refuse his

protection claim. The appellant arrived in the UK in 2009 and was granted discretionary leave as an unaccompanied minor until May 2011. When he was refused further leave, he appealed. Following reconsideration of his claim the respondent refused to grant leave on 26 September 2013. The appellant's appeal was dismissed by Judge Plimmer of the First-tier Tribunal on 12 February 2014. In that decision Judge Plimmer concluded that the appellant had provided unsatisfactory evidence regarding his parents and his uncle. Judge Plimmer did not accept that they had died as the appellant had claimed. In the decision made by Judge Young-Harry, he stated in paragraph 8 that he took the previous appeal determination as his starting point and noted in paragraph 10 that the appellant's claim was not accepted that his parents were dead. Having noted the appellant's evidence about unsuccessful attempts to make contact with his family since that appeal hearing, the judge concluded that the appellant had not shown that he had made adequate attempts and:

“16. In any event given the 2014 Tribunal found, that the appellant's parents are alive and family members remain in Iraq, the appellant has failed to explain why they cannot provide him with the additional information the embassy needs”.

The grounds contend that the judge placed undue weight on the previous determination of February 2014 and in effect treated that previous decision as both a starting point and a finishing point. It is contended that the judge ignored completely the British Red Cross letter dated 22 July 2019 which corroborated (it was said) the appellant's claim to have sought help from the Red Cross to trace his parents. It is further contended that the judge failed to fairly consider the appellant's efforts to seek help with obtaining a CSID and family information from the Iraq Embassy in Manchester. It was also contended that despite accepting that the home area of the appellant was Mosul, the judge had simply relied on the fact that there was a general improvement in the security situation in Iraq and that the appellant could therefore safely return in line with **AA [2017] EWCA Civ 944**.

2. I heard brief submissions from both representatives. Mrs Aboni concurred with Mr Trevelyan in considering that the judge had materially erred in law. Both identified the principal error as being undue emphasis placed on the earlier First-tier Tribunal decision notwithstanding the length of time since in which the appellant had produced evidence relating to his efforts to make contact with his family in Iraq. Both also noted that the judge had failed to engage with the issue of security issues in the appellant's home area which would require a more careful consideration of the situation were the appellant to be returned via Baghdad.
3. Having heard from the parties I am persuaded that the judge did materially err in law. At paragraph 16 the judge in effect treated the previous Tribunal determination as determinative of the fact that the appellant's parents were to be treated as alive and that family members

remained in Iraq. There was no proper analysis of why the judge considered no weight could be attached to the appellant's claims that he had taken steps to trace his family through the Red Cross and also through the Iraqi Embassy. I also consider that the judge should also have addressed the issue of whether it was feasible for the appellant to return to his home area in Mosul or if not, whether he would be able to safely and reasonably relocate.

4. I consider the appropriate course in this case is to remit the case to the First-tier Tribunal. I would point out, however, that it remains a matter which must be considered by the next Tribunal Judge that before Judge Plimmer the appellant had given evidence that his parents had died in 2007 and had prevaricated in his evidence about when he claimed that the uncle had died. According to his personal advisor in a letter dated 11 April 2013 he had also stated that he is in contact with family in Iraq who he speaks with on a regular basis. That inconsistency was not something that was addressed by the appellant at the hearing before Judge Young-Harry but it will need to be addressed at the next hearing, as will the other points made by Judge Plimmer in paragraphs 24 to 28 of her 2014 decision. To conclude, the decision of the First-tier Judge is set aside for material error of law. The case is remitted to the First-tier Tribunal, not before Judge Young-Harry.

No anonymity direction is made at this stage.

Signed

Date: 15 January 2020

A handwritten signature in black ink that reads "H H Storey". The signature is written in a cursive style with a large, looped 'S' at the end.

Dr H H Storey  
Judge of the Upper Tribunal