IAC-AH-SAR-V1

Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: PA/08190/2019

THE IMMIGRATION ACTS

Heard at Bradford	**Decision & Reasons Promulgated**
On 14 February 2020	**On 14 April 2020**

Before

UPPER TRIBUNAL JUDGE LANE

Between

BHH
(ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:
For the Appellant: Ms Khan
For the Respondent: Mr McVeety, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant was born in 1990 and is a male citizen of Iraq. He is of Kurdish ethnicity. He appealed to the First-tier Tribunal against a decision of the Secretary of State dated 8 July 2019 refusing his application for international protection. The First-tier Tribunal, in a decision promulgated on 20 November 2019, dismissed the appeal. The appellant now appeals, with permission, to the Upper Tribunal.

2. The appellant claims that, in October 2017, he and his family had left Kirkuk after the province had been attacked by the PMU. He went to live in his birth village (Chamchamal) where he began a relationship with a woman who became pregnant by him. The appellant claims that, upon

discovering the pregnancy, his girlfriend's family have killed her and insisted that the appellant's family kill the appellant. To avoid harm, the appellant claims to have fled Iraq. He claims to continue to fear his girlfriend's family.

3. There are two grounds of appeal. First, the appellant asserts that the judge made a mistake of fact. At [16], judge noted that the appellant claimed to have begun his relationship with his girlfriend on the day after Kirkuk had been attacked (16 October 2017). The judge wrote, 'if the appellants family fled Kirkuk as a result of the invasion on 15 October 2017, he met this girl within 24 hours and in the aftermath of the chaos that would have ensued, was not impossible, I gave the timings provided by the appellant negative weight.' *(sic)* The appellant states that Kirkuk Province has a whole was not attacked and conquered within one day that he had fled to a different part of the province where he met his girlfriend. The appellant asserts that the judge should not have given 'negative weight' to what was a plausible and consistent account.

4. The judge has made a number of findings, in addition to that at [16], which led her to disbelieve the truth of the appellant's account. Her detailed findings are set out at [20-23]. The judge found that the appellant changed his account about when he had entered a relationship with his girlfriend, giving different evidence under cross-examination from that provided at the asylum interview. At [23], the judge gave cogent and sound reasons for rejecting the submission made on the appellant's behalf that he was naive and unaware of the consequences of entering into a sexual relationship which could lead to his becoming the subject of a blood feud. At [24], the judge has given cogent reasons for rejecting the chronology of the appellant account. The appellant claimed to have had one sexual encounter with the woman concerned in January 2018 and to have last seen her on 5 July 2018. He claims that the woman's family discovered that she was expecting a baby on 14 July 2018, by which time she would have been six months pregnant. It was open to the judge to find that it was not credible that the woman's family would have not discovered her pregnancy until such a late stage.

5. I acknowledge that the judge's criticism of the appellant's account of the beginning of his relationship may be unsound; on the face of it, there appears to be no reason why the appellant could not started a relationship in a village in Kirkuk Province notwithstanding that another part of the same province had been attacked on the previous day. There is no evidence to suggest that the entirety of the province had been overwhelmed in the single day. However, I have to consider the materiality of the error. The other sound findings which I have detailed at [4] are, my opinion, wholly untainted by the judge's error as regards the date on which the relationship commenced. Indeed, regarding that latter finding, the judge herrself acknowledges that it was 'not impossible' that the relationship had commenced on the date given by the appellant. The other negative credibility findings have not been challenged and I consider that they go to the core of the appellant's account and that the judge was entitled to find the credibility of that account undermined by the

inconsistencies which she has detailed. It is my firm finding that this is not a case in which a single error of fact finding by the judge vitiates her entire credibility analysis.

6. The second ground concerns the location of the appellant's home area of Iraq. The judge appears to have assumed that the appellant is from the IKR (Independent Kurdish Region). The appellant asserts that he is not and this is family are registered in Kirkuk, which is not within the IKR.

7. Mr McVeety, who appeared for the Secretary of State, submitted that the judge's finding that the appellant remains in contact with his family in Iraq and with whom he remains on good terms renders the exact location of the appellant's home area irrelevant; the appellant's family has possession of the appellant's identity documents and would be in a position not only to send those documents to him in the United Kingdom prior to his departure to Iraq but would also be in a position to obtain any additional documents which he would require to reside safely in Iraq. Accordingly, he would be able to return safely to his home area whether that that may be within the IKR or in any other part of Iraq. I agree with that submission. The grounds of appeal complain that the incorrect identification of the appellant's home area has led the judge improperly to apply the guidance of *AA (Iraq)* [2017] EWCA Civ 944 and *AAH (Iraqi Kurds - internal relocation)* Iraq CG UKUT 00212 (IAC). I cannot see that that is the case. The appellant will have access to identity documentation (including a CSID) before he returns to Iraq and will not be at real risk of destitution or ill-treatment either in Baghdad or *en route* to his home area wherever that may be. I find that any error which the judge may have made as regards the appellant's home area is not material to the outcome of the appeal.

8. In the circumstances, this appeal is dismissed.

Notice of Decision

This appeal is dismissed.

Signed Date 23 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.