



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

Appeal Number: PA/08910/2019

THE IMMIGRATION ACTS

**Heard at Manchester CJC via Decision & Reasons Promulgated
Skype On 19 November 2020 On 30 November 2020**

Before

UPPER TRIBUNAL JUDGE PLIMMER

Between

**RG
ANONYMITY DIRECTION MADE**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the appellant: Mr Nadeem, Counsel

For the respondent: Mrs Aboni, Senior Home Office Presenting Officer

DECISION AND REASONS (V)

Pursuant to Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 (SI2008/269) an Anonymity Order is made. Unless the Upper Tribunal or Court orders otherwise, no report of any proceedings or any form of publication thereof shall directly or indirectly identify the original Appellants. This prohibition applies to, amongst others, all parties.

1. I have anonymised the appellant's name because this decision refers to his asylum claim.

2. The appellant has appealed against a decision of the First-tier Tribunal ('FTT') sent on 20 January 2020 dismissing his appeal on protection and human rights grounds.
3. Mrs Aboni conceded that the FTT decision contains an error of law such that it must be set aside and remade by another FTT other than Judge Siddiqi. Although a rule 24 notice had been filed seeking to uphold the FTT decision, Mrs Aboni resiled from that notice. Mrs Aboni noted that when granting permission to appeal in a decision dated 21 February 2020, FTT Judge Scott-Baker considered it arguable that there were very little, if any findings in the decision as the appellant's claim to be from Iran and accepted that the FTT failed to make findings on significant aspects of the appellant's claim to be Iranian.
4. Both parties consented to the appeal being allowed and the FTT's decision being set aside. They also agreed that the appeal should be remitted to be remade by the FTT de novo. I have had regard to para 7.2 of the relevant *Senior President's Practice Statement* and the nature and extent of the factual findings required in remaking the decision, and I have decided that this is an appropriate case to remit to the FTT to make completely fresh findings of fact.
5. This is an appeal that turned on the credibility of the appellant's claim that he was an Iranian Kurd with anti-regime views as demonstrated by his sur place activities on behalf of Kurdish political rights in Iran. As explained in HB (Kurds) Iran CG [2018] UKUT 00430 (IAC) those who merely speak out about Kurdish rights are at real risk of serious harm in Iran. In these circumstances the FTT was required to very carefully consider the fresh evidence relied upon by the appellant said to support his claim. In my view Mrs Aboni was entirely correct to accept that the FTT failed to make findings on or give reasons for rejecting the following evidence as contained in the appellant's witness statement dated 17 June 2019 and his detailed bundle of fresh evidence:
 - (i) The appellant cross-referenced to maps and country background information to support his claim that Sprakab's conclusion that he was Iraqi must be viewed in the context of the proximity between his claimed home area in Iran and the Iraqi border (which is in part corroborated by the Sprakab report's detailed analysis of the similarities between the Sorani dialect in the appellant's home area and the Sorani dialect in Arbil and Makhmour in Iraq, and the fact that the appellant demonstrated linguistic features common to both areas).
 - (ii) The appellant put forward a detailed claim of sur place activities against the Iranian regime in the UK. This was accompanied by over 200 pages of evidence including facebook entries and photographs.

6. Unfortunately the FTT failed to address or engage with this evidence other than observing at [29] that the appellant would not be at risk on return to Iran for reasons relating to his sur place activities because he is not Iranian. The FTT did not consider whether it was reasonably likely that the appellant was Iranian in the light of the fresh evidence particularised above (notwithstanding the other adverse credibility findings). These omissions render the FTT's credibility findings unsafe. In all the circumstances I consider it appropriate to make my decision by consent and pursuant to rule 39 of the Tribunal Procedure (Upper Tribunal) Rules 2008.

Decision

7. The decision of the FTT involved the making of a material error of law. Its decision cannot stand and is set aside.
8. The appeal shall be remade by the FTT (a judge other than Judge Siddiqi) de novo.

Signed: Ms M. Plimmer
Judge of the Upper Tribunal

Dated: 19 November 2020