



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

Appeal Number: LP/00315/2020

**THE IMMIGRATION ACTS**

**Heard at Bradford  
Via Teams  
On 15 October 2021**

**Decision & Reasons  
Promulgated  
On 17 November 2021**

**Before**

**UPPER TRIBUNAL JUDGE LANE**

**Between**

**HAWAR YUSSUF ABDULLAH**

Appellant

**(ANONYMITY DIRECTION NOT MADE)**

**and**

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

Respondent

**Representation:**

For the Appellant: Mr Greer

For the Respondent: Mr Bates, Senior Presenting Officer

**DECISION AND REASONS**

1. The appellant is a citizen of Iraq who was born on 7 June 1998. He appealed to the First-tier Tribunal against a decision of the Secretary of State dated 9 June 2020 refusing his claim for international protection. The

First-tier Tribunal, in a decision dated 13 January 2021, dismissed his appeal. The appellant now appeals, with permission, to the Upper Tribunal.

2. At the conclusion of the initial hearing, I informed the representatives that I intended to set aside the decision of the First-tier Tribunal and return the appeal to the First-tier Tribunal for the decision to be remade. I shall, therefore, be brief.
3. There are four grounds of appeal. Ground 3 is without merit. At [41] the judge found that the appellant's account of having been threatened by members of the Peshmerga to be implausible. The appellant asserts that the judge failed to give reasons for this finding. The judge's comments at [41] follows several paragraphs of analysis of the appellant's evidence and forms the conclusion to that analysis. I find that the judge has given adequate reasons and that Ground 3 is no more than a disagreement with the findings of the judge.
4. Both parties agree that Ground 4 is made out. The judge has failed to explain how the appellant would be able to obtain replacement identity documents without exposing himself to risk by living in Baghdad (to which city he will be returned) and subsequently travelling overland to his home area near Kirkuk (see *SMO, KSP and IM (Article 15(c); identity documents) Iraq CG* [2019] UKUT 400). Mr Bates, who appeared for the Secretary of State, acknowledged the judge's error but argued that it was not material given the judge's finding that the appellant was not a credible witness. I am not persuaded by Mr Bates's submission; even if the appellant has maintained contact with his family, they would be unable to assist him to obtain new biometric identity documents before the appellant would be required travel to his home area whilst, notwithstanding the judge's assessment of the appellant's credibility, the judge did not find that the appellant still has a CSID in his possession. In my opinion, Ground 4 reveals an error in the judge's reasoning which is sufficiently serious to require me to set aside the decision.
5. I find that Grounds 1 and 2 are also made out. First, the appellant complains that the judge failed to engage with his explanation for the fact that his fear of Peshmerga had not been raised in his screening interview. At the initial hearing, I read out to the representatives the passage of the judge's record of proceedings (corroborated by that of Mr Greer, who appeared for the appellant before both the First-tier Tribunal and Upper Tribunal) which records the cross examination of the appellant before the First-tier Tribunal. The appellant was asked about his screening interview and told the Tribunal, 'I did mention [my fear of the Peshmerga]. I was questioned about the reasons ... I don't know why they [the Home Office officer] haven't recorded it or mentioned it.' The judge was not obliged to accept the appellant's explanation but his analysis has been flawed by his failure to engage with it at all, if only to reject it. The same is true of the clarification given by the appellant under cross examination of his evidence concerning the number of times he claims that the Peshmerga threatened him (once or twice). He told the Tribunal that, whilst the

Peshmerga had visited his shop twice, they had only threatened him once. The judge has not engaged with that explanation.

6. The appellant succeeds on grounds 1, 2 and 4. There will need to be a fresh fact-finding exercise which is better conducted in the First-tier Tribunal to which the appeal is returned for that Tribunal to remake the decision.

### **Notice of Decision**

The decision of the First-tier Tribunal is set aside. None of the findings of fact shall stand. The appeal is returned to the First-tier Tribunal to remake the decision following a hearing *de novo*.

**LISTING DIRECTIONS: return to First-tier Tribunal at Bradford; not Judge Meah; first available date; Kurdish Sorani interpreter; First-tier Tribunal to determine whether suitable for face to face or remote hearing.**

Signed

Date 3 November 2021

Upper Tribunal Judge Lane