



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

**Appeal Number: PA/50848/2020
(IA/00353/2020)**

THE IMMIGRATION ACTS

**Heard at Birmingham CJC
On the 19th July 2022**

**Decision & Reasons Promulgated
On the 23rd August 2022**

Before

UPPER TRIBUNAL JUDGE MANDALIA

Between

**AR
(Anonymity Direction Made)**

Appellants

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr J Howard, Fountain Solicitors

For the Respondent: Mr C Williams, Senior Home Office Presenting Officer

DECISION AND REASONS

Anonymity

An anonymity direction was made by the First-tier Tribunal. The appeal before me arises from a claim for international protection and it is appropriate for an anonymity direction to be made by me. Unless and until a Tribunal or Court directs otherwise, the appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify him or any member of his family. This direction applies amongst others to all parties. Failure to comply with this direction could lead to contempt of court proceedings.

1. The appellant is a national of Iraq, from Tuz Khurmatu, and of Kurdish ethnicity. He arrived in the United Kingdom in January 2018 and claimed asylum. He claimed that he would be at risk upon return to Iraq from his father and his stepmother's family, because of allegations made against him that he had sexually assaulted his stepmother's sister. The respondent accepted the appellant is an Iraqi national but rejected his claim that he had sexually assaulted his stepmother's sister.
2. The appellant's appeal against that decision was dismissed by First-tier Tribunal Judge Dixon for reasons set out in a decision dated 28th February 2021. The issues in the appeal, agreed by the parties, are set out in paragraph [14] of the decision. The appellant attended the hearing of his appeal and gave evidence before the First-tier Tribunal. His evidence is recorded at paragraphs [15] to [30] of the decision. The judge's findings and conclusions are set out in paragraphs [45] to [50] of the decision. Judge Dixon did not find the appellant's account to be truthful for reasons set out in paragraph [46]. At paragraph [47] he said:

"I do not accept that the appellant has been accused of sexual assault and that he fled Iraq in fear. It is a fabricated account. It follows that I do not accept that he would be at risk of persecution on return to his home area."

3. As far as the question of 'redocumentation' is concerned, at paragraphs [49] and [50] of his decision, Judge Dixon said:

"49. As I have not found the appellant's account to be a truthful one, I find that his father is available in Iraq to assist him to obtain CSID or INID. Annex 1 to the Country Policy and Information Note, Iraq: Internal relocation, Civil Documentation and Returns: 'Information Obtained from the Home Office's Returns Logistics Department April 2020' at question 4 under the heading 'Civil Status Identity Cards' (508) indicates that his father would be able to act on his behalf and to assist with the documentation process, in the first instance enabling him to apply for the registration document (1957) which can then be used to apply for an INID and other documents in Iraq.

50. In the alternative, even if the appellant's account were truthful such that he would be at risk in his home area and such that his father would not be available to assist him, the same document makes clear that anyone could act on the appellant's behalf in this process as his nominated representative. In this connection, his auntie or his friend who assisted him to leave Iraq could help him with the documentation process. I note that lack of an identity document does not mean that the process would not

work: the appellant can provide a power of attorney validated by the FCO and his parents' names, place and date of birth to his nominated representative (who not need be a family member) in Iraq. On either scenario, the appellant would be able to obtain the necessary documents and therefore make his way from Baghdad and travel within Iraq and to the IKR."

4. Permission to appeal was granted by Upper Tribunal Judge Plimmer on one ground only, on 31st August 2021. She said:

".. It is arguable that the FtT has failed to take into account the evidence in the relevant country guidance regarding difficulties in redocumentation where INID terminals have been implemented. I grant permission to appeal on this sole ground of appeal. The appellant's representative must be prepared to explain why any arguable error is material in the particular circumstances of this case."

5. The appellant claims that in reaching his decision Judge Dixon failed to take into account the respondent's published guidance: "CPIN Iraq: Internal relocation, civil documentation and returns: June 2020" which states:

"2.6.16 Based on the above information, it is highly unlikely that an individual would be able to obtain a CSID from the Iraqi Embassy while in the UK. Instead a person would need to apply for a registration document (1957) and would then apply for an INID upon return to their local CSA office in Iraq."

6. The appellant claims that is consistent with the evidence of Dr Fatah that was recorded by the Upper Tribunal at paragraph [366] of the decision in SMO, KSP & IM (Article 15(c); identity documents) Iraq CG [2019] UKUT 00400 (IAC). The applicant claims he cannot obtain a CSID by proxy in the UK before leaving the UK, and he cannot obtain a CSID/INID from Baghdad.

7. Mr Howard submits Judge Dixon erred in his analysis of the appellant's ability to obtain a CSID. He submits the appellant's only option is to obtain a replacement from Tuz Khurmatu, and that would involve the appellant remaining in Baghdad for a period without documentation during which time he would encounter conditions that would be contrary to Article 3. Without a CSID, the appellant would face a perilous journey

from Baghdad to Tuz Khurmatu. Mr Howard referred to headnote [16] in SMO, KSP & IM (Article 15(c); identity documents) Iraq CG [2019] UKUT 00400 (IAC) in which the Tribunal said:

“The likelihood of obtaining a replacement identity document by the use of a proxy, whether from the UK or on return to Iraq, has reduced due to the introduction of the INID system. In order to obtain an INID, an individual must attend their local CSA office in person to enrol their biometrics, including fingerprints and iris scans. The CSA offices in which INID terminals have been installed are unlikely – as a result of the phased replacement of the CSID system – to issue a CSID, whether to an individual in person or to a proxy. The reducing number of CSA offices in which INID terminals have not been installed will continue to issue CSIDs to individuals and their proxies upon production of the necessary information.”

8. When pressed, Mr Howard accepted there was no evidence before the First-tier Tribunal regarding the installation or otherwise of INID terminals in Tuz Khurmatu. He submits that in providing the brief reasons he did regarding ‘redocumentation’, Judge Dixon did not go far enough.
9. In reply, Mr Williams submits Judge Dixon comprehensively rejected the core of the appellant’s account and found that he has fabricated his account. In reaching his decision, at paragraph [46], Judge Dixon considered the inconsistencies in appellant’s account regarding his CSID and was not persuaded that the appellant has made a genuine effort to obtain identity documents. In his asylum interview, the appellant was asked, at question 9, whether he had ever been issued with any national identification in Iraq. He said that he had but claimed that he did not know if he had a CSID card or not, as all his documents were with his father and stepmother. At paragraph [46(vi)] of his decision, Judge Dixon noted the appellant’s previous claim that his CSID was kept by his father and stepmother at home, but that was inconsistent with the appellant’s oral evidence that he had lost it on the way to work. Judge Dixon accepted the force of the submission made on behalf of the respondent that if the appellant had lost his CSID as he claimed in his oral evidence, it was incredible that he had not sought a replacement CSID given the importance of that document in Iraq.

10. Mr Williams submits that on the evidence before the Tribunal and the findings made it was open to Judge Dixon to conclude that the appellant's father can assist him in obtaining a CSID. The replacement CSID could be sent by the appellant's father to the UK, or, on return, the appellant can be met by his father with the CSID so that the appellant can safely travel from Baghdad to Tuz Khurmatu.

Discussion

11. The "CPIN Iraq: Internal relocation, civil documentation and returns: June 2020" that is referred to and relied upon by the appellant does not assist him, on the findings made by Judge Dixon. Judge Dixon rejected the core of the appellant's subjective account of his fear of his father and step-mother. He noted the inconsistencies in the appellant's account regarding his CSID. The appellant's oral evidence before the First-tier Tribunal was that the appellant previously held a CSID.
12. Although the CPIN states that it is highly unlikely that an individual would be able to obtain a CSID from the Iraqi Embassy while in the UK, the relevant paragraph goes on to state: *"...a person would need to apply for a registration document (1957) and would then apply for an INID upon return to their local CSA office in Iraq."*
13. In my judgment, the difficulty with the claim made by the appellant is, as Mr Howard quite properly acknowledges, that there was no evidence before the First-tier Tribunal that a CSID is not available at the appellant's local CSA office in Tuz Khurmatu. There was no evidence that INID terminals have been installed there, so that the likelihood of the appellant obtaining a replacement identity document by the use of a proxy, here, the appellant's father, whether from the UK or on return to Iraq, has reduced. Here, there was no evidence that the appellant would have to attend the local CSA office in Tuz Khurmatu in person to enrol his biometrics, including fingerprints and iris scans. The country guidance in force as at the time of the decision of the First-tier Tribunal was that the

CSA offices in which INID terminals have not been installed, will continue to issue CSID's to individuals and their proxies upon production of the necessary information.

14. On the findings made by the First-tier Tribunal and on the background material that was before Judge Dixon, it was undoubtedly open to him to conclude that the appellant's father would be able to act on his behalf to assist with the documentation process, in the first instance enabling the appellant to apply for the registration documents and thereafter, other documents, including a CSID, in Iraq. The relevant CSID can be sent to the appellant in the UK so that he has it on return. Alternatively, as Mr Williams submits, the appellant can be met by his father on return to Iraq so that his CSID can be provided to him. Either way, the appellant would not be left, as he claims, 'languishing in Baghdad'. He would have access to the relevant identity documents to enable him to travel from Baghdad to his home area.
15. Both parties acknowledged before me that since the decision of First-tier Tribunal Judge Dixon, the Upper Tribunal has provided further country guidance in SMO & KSP (Civil status documentation; article 15) Iraq CG [2022] UKUT 00110 (IAC). It was common ground that that country guidance post-dates the decision of First-tier Tribunal Judge Dixon and cannot found the basis of an 'error of law' in the decision of the First-tier Tribunal.
16. The grounds of appeal in the end amount to a disagreement with the findings and conclusions reached by Judge Dixon. A fact-sensitive analysis of the risk upon return was required. In my judgement, the findings made by Judge Dixon were findings that were properly open to him on the evidence before the Tribunal. The findings and conclusions reached cannot be said to be perverse, irrational or findings that were not supported by the evidence.

17. It follows that in my judgment, there is no material error of law in the decision of Judge Dixon, and I dismiss the appeal.

Decision

18. The appeal is dismissed. The decision of First-tier Tribunal Judge Dixon shall stand.

19. I make an anonymity direction.

Signed **V. Mandalia**

Date: 19th July 2022

Upper Tribunal Judge Mandalia