



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2021-001903
First-tier Tribunal No:
HU/50419/2020
IA/00038/2021

THE IMMIGRATION ACTS

Decision & Reasons Issued:
On the 26 March 2023

Before

UPPER TRIBUNAL JUDGE HANSON
DEPUTY UPPER TRIBUNAL JUDGE ROBERTSON

Between

**AAP
(ANONYMITY ORDER MADE)**

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

Respondent

Representation:

For the Appellant: Mr Wilson of the Refugee and Migrant Centre.

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

Heard at Birmingham Civil Justice Centre on 19 January 2023

Order Regarding Anonymity

**Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008,
the appellant is granted anonymity.**

No-one shall publish or reveal any information, including the name or address of the appellant, likely to lead members of the public to identify the appellant. Failure to comply with this order could amount to a contempt of court.

DECISION AND REASONS

1. The appellant appeals with permission a decision of First-tier Tribunal Judge Athwal ('the Judge'), promulgated following a hearing at the Nottingham Justice Centre on 28 July 2021, in which the Judge dismissed the appellant's appeal on all grounds.

2. The appellant is a citizen of Iraq, of Kurdish ethnicity, who claims he was born on 1 January 1986 in Harir which is part of the Erbil Governorate in the IKR.
3. The grounds seeking permission to appeal focus upon the Judge's findings in relation to documentation at [85] of the decision under challenge. The remaining findings of the Judge are not challenged, including adverse credibility findings, and stand.
4. Permission to appeal was granted by another judge of the First-tier Tribunal on 17 November 2021, the operative part of the grant being in the following terms:

The grounds take a narrow point, being that the Judge erred in finding at [85] that the appellant could be assisted by family members to obtain a CSID. It is arguable for the reasons advanced. While SMO [2019] UKUT 400 does put a burden upon the appellant to show whether his home registration office still issues CSIDs, it is arguable both that the up-to-date CPIN shows that this is very unlikely and that the Judge does not consider it. There must be some concern about the materiality of that error (if established) given the findings at [82] that the appellant must have travelled around Iraq somehow. But it cannot be said that the same outcome is inevitable.

5. The application is opposed by the Secretary of State.

Discussion

6. In relation to identity documents at [83-85] the Judge wrote:
 83. SMO established that it is necessary for an individual to have a CSID in order to live and travel within Iraq without encountering treatment or conditions which are contrary to Article 3 ECHR.
 84. In accordance with SMO, it is for the individual appellant who does not have an CSID or an INID to establish on the lower standard that they cannot obtain a CSID by the use of a proxy, whether from the UK or on arrival in Baghdad, Erbil or Sulaymaniyah.
 85. SMO states that the Appellant would be required to know the page and volume number of the book holding the record of the individual and their family. I am satisfied that the Appellant is in contact with his father and brother. They could assist the Appellant in obtaining the necessary documents to apply for a 1957 document at the Iraqi embassy. Alternatively, as established in SMO the Appellant could be met at the airport upon return by his father or brother who could take him to the KRI so that a CSID could be obtained.
 86. I therefore find that it is possible for the Appellant to obtain the necessary documents that would enable him to return to Iraq.
7. In the grant of permission to appeal there is reference to [82] of the decision in which the Judge writes:
 82. I do not find any of the Appellant's account credible against the country information. The Appellant was returned to Erbil where his family live. As established by Judge Brewer, there was no risk of harm to the Appellant in his home area. Despite that

the Appellant claims that he was unable to contact his family either in person or over the telephone. He has not provided a credible account of how he was able to leave the KRI and Mosul without identification documents and how he was able to travel to the UK without any funds. The only plausible explanation as to how he managed to travel through Iraq and journey to the UK is that his family assisted him. Appellant has not disclosed the real situation with his family. I am not therefore satisfied that he has lost contact with his father and brother in Iraq.

8. The appellant claimed he was able to pass through the roadblocks that exist between the IKR and Mosul because his taxi driver dealt with any problems, which is an argument contrary to the country guidance caselaw, including SMO, which clearly states that an individual who does not have the necessary identity documents is unlikely to be permitted to pass through checkpoints, especially in an area which has seen fighting as a result of the activities of ISIL. As noted in SMO [2022] UKUT 00110, "*Many of the checkpoints in the country are manned by Shia militia who are not controlled by the GOI and are unlikely to permit an individual without a CSID or an INID to pass*".
9. The more plausible explanation for the ability of the appellant to pass through checkpoints and enter an international airport, where security is much tighter, is that he must have had the necessary identity documents to enable him to do so. There is also a credible comment made by the Judge that it was not credible that the appellant will be able to fly from Iraq and travel to the UK without appropriate funds. Nor do we find any material error in the Judge's conclusion that the appellant's claim to have lost contact with his father and brother in Iraq is not credible.
10. A further change that has occurred in relation to returns to Iraq is that the Secretary of State now makes both voluntary and enforced returns to any airport within Iraq. The appellant was removed previously to Erbil on 17 March 2010, and he could be returned to the same airport again. The Judge noted the appellant claimed to have re-entered the UK in October 2010.
11. In relation to documentation, the appellant claimed in his evidence not to be in possession of a CSID card. These documents are slowly being replaced by the biometric INID cards and the fact the appellant was able to travel without difficulty within Iraq following his return in 2010 indicates that he must have had in his possession one or the other of these documents.
12. In [85] the Judge finds that as the appellant is in contact with his father and brother they could meet at the airport and assist him with obtaining further identity documents.
13. Mr Wilson in his submissions argued that even if the appellant was returned to Erbil and was able to get through the airport without difficulty, which is the likely position for the appellant as an Iraqi Kurd, he will not be able to travel to his local CSA offices as he will not be in possession of the necessary identity documents to enable him to pass through checkpoints.
14. The up-to-date information provided by the Secretary of State shows that there are far more CSA offices still issuing CSID in Iraq than the two named offices referred to in the earlier CPIN. In relation to Erbil there appear to be 8 CSA offices still issuing the old-style documents although, if the appellant was able to travel to his local CSA office he will be able to provide his biometrics to obtain an INID.
15. The submission made by Mr Williams in response was fairly simple which is that the appellant had not provided sufficient evidence to prove that he will be required to pass through checkpoints within the IKR, and in particular

Erbil Governorate. As such he will not be required to cross any borders such as those that exist between the IKR and the area controlled by the Iraqi government. It was also submitted the appellant had failed to provide sufficient evidence to specifically identify which CSA office he is registered at.

16. We find the points raised by Mr Williams to be made out on the facts. As was found in SMO:

13. Notwithstanding the phased transition to the INID within Iraq, replacement CSIDs remain available through Iraqi Consular facilities but only for those Iraqi nationals who are registered at a CSA office which has not transferred to the digital INID system. Where an appellant is able to provide the Secretary of State with the details of the specific CSA office at which he is registered, the Secretary of State is prepared to make enquiries with the Iraqi authorities in order to ascertain whether the CSA office in question has transferred to the INID system.
14. Whether an individual will be able to obtain a replacement CSID whilst in the UK also depends on the documents available and, critically, the availability of the volume and page reference of the entry in the Family Book in Iraq, which system continues to underpin the Civil Status Identity process. Given the importance of that information, some Iraqi citizens are likely to recall it. Others are not. Whether an individual is likely to recall that information is a question of fact, to be considered against the factual matrix of the individual case and taking account of the background evidence. The Family Book details may also be obtained from family members, although it is necessary to consider whether such relatives are on the father's or the mother's side because the registration system is patrilineal.
17. It was not made out that the appellant's CSA office is not one of those that continues to issue a replacement CSID and therefore it is not made out that the appellant could not obtain a replacement document through the Iraqi Consul in the United Kingdom
18. The fact the appellant remains in contact with his father and brother means he has not established any reason why he could not obtain the information relating to the volume or page reference of this entry in the Family Book in Iraq, evidence identified as being material to the ability to obtain replacement documentation.
19. Two judges of the First-tier Tribunal have found the appellant not to be credible and willing to lie for the purposes of enable him to remain in the United Kingdom. The appellant's lack of respect for the law is amply demonstrated by the fact he re-entered the UK unlawfully despite having been removed on a previous occasion. The appellant's claims in relation to his ability to travel across Iraq from Erbil to Mosul without documentation has been shown to lack credibility and to be contrary to country guidance caselaw.
20. We do not find the appellant has established his claim that he does not have access to the required documentation or that he is unable to redocument himself either prior to arriving in the UK or on return, especially with the assistance of his father and/or brother.
21. We find the appellant has failed to establish legal error material to the decision to dismiss the appeal.

Notice of Decision

22. No legal error material to the decision of the Judge to dismiss the appeal is made out. The determination shall stand.

C J Hanson

Judge of the Upper Tribunal
Immigration and Asylum Chamber

20 January 2023