



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2020-000007
FTT No: PA/50151/2019

THE IMMIGRATION ACTS

**Decision & Reasons Issued:
On 22 August 2023**

Before

UPPER TRIBUNAL JUDGE LANE

Between

LAK

(ANONYMITY ORDER MADE)

and

Secretary of State for the Home Department

Appellant

Respondent

Representation:

For the Appellant: Mr Ahmed
For the Respondent: Ms Young, Senior Presenting Officer

Heard at Phoenix House (Bradford) on 31 May 2023

DECISION AND REASONS

1. The appellant who was born on 15 March 1997, is a male citizen of Iraq. The Secretary of State refused his claim for international protection by a decision dated 23 October 2019. The appellant appealed to the First-tier Tribunal which, in a decision dated 25 August 2020, dismissed his appeal. The appellant now appeals to the Upper Tribunal.
2. Granting permission First-tier Tribunal Judge Rhys-Davies wrote:

2. The Appellant has drafted the brief Grounds himself. The Grounds argue that the Judge did not apply appropriate concentration to this appeal because “she has not accepted me as a refugee, but I should get humanitarian protection” and then summarise the Appellant’s case, rather than setting out any specific alleged errors of law by the Judge.

3. However, the Decision and Reasons does reveal arguably material errors of law. At [69] the Judge made a finding that the Appellant is at risk of Article 15(c) harm. However, at [74] under the heading “Conclusions on Humanitarian Protection”, the Judge found that the Appellant had not proved this. While the intervening paragraphs [70]-[73], in which the Judge found that the Appellant could reasonably relocate to the IKR might be taken to explain this contradiction, [69] and [74] are, on the face of it, inconsistent.

4. Further, at [76], the Judge stated, “The appeal is dismissed on asylum grounds” yet at [77] the Judge stated, “The appeal is dismissed on humanitarian protection grounds as the Appellant is a refugee”.

3. First, it is not clear why Judge Rhys-Davies considered it necessary to depart from the pleaded grounds in search of other reasons to grant permission. As the Upper Tribunal has made clear in a number of recent decisions, it is a practice to be avoided. The pleaded grounds are brief (‘believe that the judge has not right concentration on my case. while She has not accepted me as a refugee, but i should get Humanitarian protection, beacuse i came from the most dangerouse part of Iraq, which belong to Mosul province. i have tried to find my family throgh the UK red Cross. our city has been destroyed by Islamic terrorists groups. i have no one the to help me and provide me with a food a ccommodation. please consider my situation as i explained’ (*sic*)) These grounds do not, as Judge Rhys-Davies acknowledged, identify any arguable error of law in the First-tier Tribunal’s decision.
4. Secondly, the arguable ‘errors’ identified by the judge are manifestly ‘template’ mistakes, by which I mean failures of the judge to delete unwanted passages of text from her standard decision template. They are not evidence of confused thinking or contradictory findings on the part of the judge. Where, at [74], the judge has stated that the appellant ‘has not discharged the burden of proof upon him to show that on his return he would face a real risk of suffering serious harm’ it is obvious that she has not removed the word ‘not’ from the text. That much is entirely clear from any reading of the decision as a whole (and, in particular, [69]: ‘Whilst he is not a refugee therefore, he is at risk of Article 15(c) harm.’). The judge’s conclusions at [76-78] are egregious; the appeal is dismissed on asylum grounds as is the humanitarian protection appeal ‘ as the Appellant is a refugee.’ These errors represent poor proof reading but nothing more serious. It is absolutely clear from the judge’s analysis that she found that the appellant was not a refugee but was potentially at risk of Article 15 harm in Iraq. However, she dismissed the appeal because the appellant could exercise the option of internal flight to the IKR, a finding which, significantly, the appellant has not challenged but which is, on the facts of this appeal, wholly determinative of the outcome.
5. In the circumstances, the appeal is dismissed.

Notice of Decision

The appeal is dismissed.

C. N. Lane
Judge of the Upper Tribunal
Immigration and Asylum Chamber

Dated: 2 August 2023