



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2021-000232

First-tier Tribunal No: PA/52209/2020

THE IMMIGRATION ACTS

Decision & Reasons Issued:
On 21 June 2023

Before

UPPER TRIBUNAL JUDGE RIMINGTON
DEPUTY UPPER TRIBUNAL JUDGE L MURRAY

Between

SMR
(ANONYMITY ORDER MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Miss Jones, Counsel instructed by Halliday Reeves Solicitors
For the Respondent: Ms Rushforth, Senior Home Office Presenting Officer

Heard at Cardiff Civil Justice Centre on 18 May 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, a citizen of Iraq born in 1982, appeals with permission against the decision of First-tier Tribunal Judge Lloyd-Lawrie (the Judge) who on 26 April 2021 dismissed his appeal against the Secretary of State's refusal of his asylum, humanitarian protection and human rights claim dated 15 October 2020.

2. The Appellant claimed to have arrived in the UK on 13 July 2004 and claimed asylum on the same day. His claim was refused and his appeal was dismissed on 2 September 2005 and his appeal rights were exhausted on 4 October 2005. He lodged a series of further submissions which were all refused. The last was made on 28 November 2019.
3. The refusal decision letter dated 15 October 2020 identified that the decision of the adjudicator promulgated on 5 September 2005 found that there were inconsistencies in the Appellant's account, that he did not have a well-founded fear of persecution in Iraq and could reasonably relocate. The Respondent considered the Appellant's protection based submissions that the Appellant had a well-founded fear of persecution from the Appellant's girlfriend's family whom he claimed belonged to an Islamic extremist group. The Respondent considered the documents he submitted consisting of a letter from his brother dated 15 January 2019 and a letter from the Ashti Organisation for Human Rights dated 17 February 2019. The Respondent concluded for the reasons set out in the refusal decision that significant weight could not be given to the documents and that the Appellant had not established that they were genuine. The Respondent concluded with reference to SMO , KSP & IM (Article 15 (c); identity documents) Iraq CG [2019] UKUT 00400 (IAC) ("SMO 1") that the Appellant had not submitted any evidence to show that he was not in contact with his family and that he had a brother in Iraq who had provided him with a letter. The Respondent concluded that he had not provided any evidence that he did not have Iraqi ID documentation. The Respondent concluded that the Appellant's family could assist him by sending him his ID documentation to enable his onward travel from Baghdad.
4. The grounds seeking permission to appeal, dated 10 May 2021, state that the Judge erred in concluding that the letter from Ashti Organisation for Human Rights could not be relied on and the Judge failed to give adequate reasons for her conclusion. An email exchange confirmed that the letter was genuine and the contents were true. Evidence had been provided to demonstrate the bona fides of the organisation and the email address used to contact the Ashti Organisation from which the response was received. There was evidence from the organisation confirming that the document was issued by them and accurately recorded the result of their investigation. Further, the Judge had not addressed the fact the confirmation that the letter was genuine and the contents were true was signed by the director and the fact that someone with the same first name as the Appellant's brother's friend had co-signed the report along with six others was not an adequate reason for disputing the bona fides of the document or the truthfulness of its contents. Further, the failure of the organisation to set out in detail the steps they took to investigate the Appellant's claims was not a reason to conclude that the letter was not reliable.
5. The grounds further argue that the Judge's reliance on SMO, KSP & IM (Article 15(c); identity documents) Iraq CG [2019] UKUT 400 (IAC) arguably amounts to an error of law and the Judge's reasoning in respect of whether the Appellant can obtain a replacement CSID is unclear. It is submitted that as the Appellant would be returned to Baghdad he would not be able to make the journey without documents so the Judge's suggestion that he could return to his local area and obtain a replacement CSID is contrary to the conclusions in SMO 1. It is further stated that the Judge fails to explain why the Appellant's brother will be able to obtain the document for him.

6. Upper Tribunal Judge Kamara granted permission on all grounds on 19 November 2021.
7. The Rule 24 response states that the Judge properly directed herself to and reached sustainable findings on the key issues in the appeal. Reasoned findings were made on the Appellant's credibility, noting the previous adjudicator's findings. The Judge found against the Appellant's claims of not having a CSID and not being in contact with his family and was entitled to find that his family members would be able to send him a CSID within a reasonable time. Because it did not rely on the Judge's consideration of country guidance any error as to the issue of 'book and page number' in the family record was not material.
8. At the hearing Miss Jones submitted that the letter from the Ashti Organisation was from a genuine source and was signed by the organisation. The organisation was an established one and it was accepted that the document was a genuine one. In relation to the CSID, the Appellant was not in possession of this document and had been consistent since arriving in the UK that he did not have it. Since the decision was promulgated the Upper Tribunal had promulgated SMO & KSP (Civil status documentation; article 15) Iraq CG [2022] UKUT 00110 ("SMO 2") and the Appellant would be unable to obtain a replacement CSID in Baghdad or in the UK. The clarity given by SMO 2 was not available to the Judge when she made her decision. The Appellant no longer had contact with his brother.
9. Miss Rushforth submitted that the Judge made adequate and sustainable findings in relation to the letter from the Ashti Organisation and gave adequate reasons for concluding that the Appellant was not a reliable or credible witness. The letter from Ashti was based on what the Appellant's brother had told them and restated what he said. The background evidence was not relevant to this finding. The Judge did not accept that the CSID was lost and found that the Appellant had it. These findings were not affected by SMO 2.

Analysis

10. There is no issue in this case that the Judge correctly applied the principles in Devaseelan v The Secretary of State for the Home Department [2002] UKIAT 00702. The Judge sets out the findings of Adjudicator Laws in 2005 that the Appellant's account was inherently implausible and his conclusions that the Appellant did not have a relationship with his girlfriend leading to her pregnancy and that there was no resulting risk of persecution from her family to the Appellant.
11. The Appellant's further submissions relied on a report from Ashti Organisation for Human Rights at p27 of the Respondent's bundle. That report contains a 'lodging a complaint' from the Appellant's brother dated 15 January 2019 in which the threat to the Appellant and his brother from the Islamic extremist group on the grounds of the Appellant's sexual relationship with his girlfriend is documented. The 'final report' is dated 17 February 2019. It sets out the information provided in the letter by the Appellant's brother and states that the organisation took on the case and formed a committee and attempted to reach a resolution for more than 30 days. The report states that they found that the case does exist and that the statement is true but there is no law in place to deal with and resolve the case. It is stated that the family's issue will only be settled by killing the Appellant and that they have been putting pressure on and causing

physical and emotional harm to his brother. The report is accompanied by seven signatures and information about the organisation.

12. The Appellant's bundle before the First-tier Tribunal contained further evidence in relation to the report from Ashti. In an email at p62 of the Appellant's bundle the Appellant's solicitor wrote to the organisation and asked for confirmation that the letter was sent by them. There is a reply at page 63 in which the Ashti organisation confirms that the information is correct and true and that the Appellant and his brother's lives are in danger. Further information in relation to the Asthi Organisation for Human Rights is provided in the form of the Facebook pages at 72 to 84 of the Appellant's bundle.
13. The Judge found in essence that whilst the document emanated from a proper source, the information it contained was not true and that it was therefore not a reliable document. The Judge's findings in relation to the evidence from Ashti are at paragraphs 31 to 33 of the decision. She noted the emails from the Appellant's representative to and from the organisation and the Facebook page and accepted that the document was genuine. She found, however, that the Appellant's evidence in relation to the document and how it came about was so highly contradictory that it could not be relied on; that there was no mention in the report as to what investigation took place and how the organisation concluded that the matter could not be resolved without the Appellant's death and that the Appellant's evidence was that his brother had a friend at the organisation. We find that those conclusions can neither be said to be factually incorrect nor inadequately reasoned. The Judge records the Appellant's evidence in relation to how the report came to be at paragraphs 31 and 32. It was clearly open to her to conclude on the basis of the Appellant's answers as recorded there that his evidence was contradictory and confusing as to when he had contact with his brother, how the document was obtained and why, given that his brother was under continuous threat, he waited until 2019 to seek help. It was also open to her to conclude that there was no mention in the report as to what investigation took place or how the conclusion that the Appellant and his brother were at risk was reached as the report contains no information in relation to these matters.
14. We find that the Judge came to adequate conclusions in relation to the evidence from Ashti after looking at all of the evidence in the round in accordance with Tanveer Ahmed [2002] Imm AR 318. Bearing in mind the former adverse credibility findings over 15 years ago on the alleged persecution in relation to the girlfriend, the findings were unarguably open to the judge. The Appellant had also submitted a death certificate for his girlfriend which showed the date of death as an entirely different one to the date advanced by him. The Judge gave adequate reasons for rejecting his account that this was an error. Although the Judge did not specifically mention that the report and subsequent correspondence were signed by the director and did not record the number of signatories, we do not find that this is material. She was clearly aware that the email emanated from the organisation and not from the Appellant's brother's friend and that there was more than one signatory (paragraph 33). It was open to her to find that the content of the documents were not reliable in light of the significant discrepancies in the Appellant's evidence, the absence of any information about what investigation had been carried out, and the discrepancies in the death certificate.
15. The First-tier Tribunal's decision, the grounds and the grant of permission all pre-date the decision of the Upper Tribunal in SMO & KSP (Civil status documentation; article 15) Iraq CG [2022] UKUT 00110. We find that the Judge's

findings in relation to the Appellant's CSID are both adequately reasoned and survive the revised guidance in SMO 2 for the following reasons. The Judge gave adequate reasons for finding that the Appellant still had contact with his brother. Although the Judge directed herself in accordance with SMO 1 that it was not credible that any healthy adolescent or adult Iraqi would fail to memorise or keep a note of the book, page and volume number of their family record, we find that this was not material to her findings. In effect, however, the Appellant was found not to be credible both in his claim and this extended to his possession of his CSID and we find that she gave adequate reasons for finding that the Appellant still had access to his own CSID or could obtain it from his family in a timely period. The impugned findings in relation to how the Appellant's brother could obtain a replacement CSID for him were in the alternative. The grounds assert that the Appellant had consistently maintained that he did not have an CSID and the Judge gave no reasons for rejecting this evidence. However, the Judge found that the Appellant was not truthful. She found no reasons to depart from the previous adverse credibility findings of Adjudicator Laws, rejected his documentation as unreliable and found he remained in contact with his brother. In view of the fact that she rejected the entirety of his claim it was open to her to import these findings into her findings with regard to his possession of his CSID. Further, although the grounds assert that the Appellant had consistently maintained that he did not have his CSID, Miss Jones was not able to take us to any evidence in this regard save for the Appellant's witness statement.

Notice of Decision

The decision of the First-tier Tribunal contains no material error of law and will stand. The Appellant's appeal remains dismissed.

Signed

A handwritten signature in black ink, appearing to be 'L Murray', enclosed in a thin black rectangular border.

L Murray
Deputy Judge of the Upper Tribunal
2023

Dated: 1 June

