



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2022-004081
First-tier Tribunal No:
PA/01095/2021

THE IMMIGRATION ACTS

Decision & Reasons Issued:
On the 19 September 2023

Before

DEPUTY UPPER TRIBUNAL JUDGE PARKES

Between

SO
(ANONYMITY DIRECTION NOT MADE)

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

Respondent

Representation:

For the Appellant: Mr M Karnik (Counsel, instructed by Braitch Solicitors)
For the Respondent: Mr P Lawson (Senior Home Office Presenting Officer)

Heard at Birmingham on 31st August 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 is a citizen of Iraq, his date of birth is the 29th of September 2001. The Appellant left Iraq in mid-2104 with his uncle and arrived in the UK in mid-2016 claiming asylum in the September with uncle before making his own claim in October 2017. The application was refused, and the Appellant appealed to the First-tier Tribunal. The appeal was heard by Judges Chohan and Feeney sitting in a panel

at Birmingham on the 18th of May 2022 and dismissed in their decision of the 27th of June 2022.

2. The Appellant sought permission to appeal to the Upper Tribunal in Grounds drafted by the Appellant's counsel from the First-tier Tribunal hearing, Mr M Brooks, dated the 6th of July 2022, pages 30 to 34. The first ground is that the Judges had not applied the country guidance that related to the ability of Iraqi citizens to obtain a CSID by proxy. The second ground suggested that the wrong standard of proof had been applied, the third ground was that the ability of the Appellant's mother and sisters' ability to live in Iraq was irrelevant. The application was refused by Judge Cartin.
3. The Appellant renewed the application to the Upper Tribunal in Grounds of the 10th of August 2022 focussing on the issue of the CSID and the Appellant's return. Permission was granted by Upper Tribunal Judge Kopieczek on the 6th of December 2012. In granting permission Judge Kopieczek was of the view that it was arguable that there was an error in the conclusion that the Appellant would be able to obtain a CSID by proxy in the context of a return to Baghdad. He also took the view that there was an arguable case in respect of ground 3 and less so in respect of ground 2.
4. At the hearing before me Mr Lawson accepted that there was an error in respect of the panel's approach to the question of the Appellant's CSID and ability to obtain identification documentation. It was agreed that the appeal should be remitted to the First-tier Tribunal for that issue to be considered afresh but that there is no objection to either member of the panel hearing this aspect of the appeal.
5. I rose briefly to give Mr Lawson and Mr Karnik the opportunity to agree the terms on which the appeal could be remitted. The agreement reached is as follows "The Appeal is to be remitted back to FTT for consideration of redocumentation and the question of whether there is a real risk he will not be able to obtain necessary documentation upon being returned to Iraq in light of SMOII and the SSHD's CPIN Internal relocation, civil documentation and returns, July 2022 or any subsequent version, and any additional evidence the parties may adduce."
6. Mr Karnik did not concede that the other grounds had no merit and argued that those too demonstrated an error on the part of the panel. Having regard to the contents of the decision I indicated that I did not agree for the reasons that follow. The panel expressly turned to whether the agreed facts set out in paragraphs 8 and 9, which are preserved, would place the Appellant at risk. In paragraph 11 the panel had regard to the report of Dr Fatah, there would be protection from the authorities in Sulaymaniyah from ISIS.
7. Paragraph 12 addressed the risk to family members of Gorran members and concluded, again on the evidence of Dr Fatah, that the Appellant would not be at risk. He was not a Gorran supporter, in the circumstances the threat issued to the Appellant was a deterrent, neither were killed or seriously injured. The evidence of Dr Fatah did not support the claim that a family member of a Gorran member would be at risk.
8. The Appellant's own expert evidence did not support the claim that the Appellant would be at risk in Iraq on the basis of the events that the Appellant had described, and which were accepted. The grounds in this regard are a disagreement with the panel's decision and do not show that there was an error in the approach taken or the findings made.

Notice of Decision

9. This appeal is allowed to the extent that there is an error of law in respect of the panel's findings on the Appellant's ability to obtain identification documentation and return to Iraq.

Judge Parkes

Deputy Judge of the Upper Tribunal
Immigration and Asylum Chamber

Dated: 1st September 2023

