



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2023-002146
First-tier Tribunal Nos: PA/54113/2021
IA/12084/2021

THE IMMIGRATION ACTS

Decision & Reasons Issued:
On the 25 October 2023

Before

DEPUTY UPPER TRIBUNAL JUDGE JUSS

Between

Mr Peshraw Hassan Ahmed
(NO ANONYMITY ORDER MADE)

Appellant

and

The Secretary of State for the Home Department

Respondent

Representation:

For the Appellant: Mrs Johnrose (Solicitor)
For the Respondent: Mr Tan (Senior Home Office Presenting Officer)

Heard at Manchester Civil Justice Centre on 29 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. This is an appeal against the determination of First-tier Tribunal Judge Alis, promulgated on 16th January 2023, following a hearing at Manchester on 9th January 2023. In the determination, the judge dismissed the appeal of the Appellant, whereupon the Appellant

subsequently applied for, and was granted, permission to appeal to the Upper Tribunal, and thus the matter comes before me.

The Appellant

2. The Appellant is a male, a citizen of Iraq, and was born on 25th November 1991. He appealed against the refusal of asylum by the Respondent on 6th August 2021 and for leave to remain in the UK.

The Appellant's Claim

3. The essence of the Appellant's claim is that he had an affair with a lady by the name of Wizdan Marhan, who was married, and that he now feared her family as they belong to the Harkey tribe, which had close connections to the Barzani tribe, which in turn comprised the majority of the fighters in the Peshmerga militia, having connections to the PUK, in Sulaymaniyah.

The Judge's Findings

4. The judge observed that the key part of the Appellant's claim was whether he would be at risk from honour killing or whether Wizdan's husband's family have connections in the way maintained by the Appellant (see paragraph 37). The judge accepted the Appellant's claims of his relationship with Wizdan but did not accept, "her husband's family's connection to a prominent MP or anyone else in the IKR". Nor did the judge accept that the Appellant could demonstrate, "that he would be at risk from Wizdan's family in the Sulaymaniyah Governate or that it would be unreasonable to require him to relocate to that area". What then appears in the judge's determination is significant, because the decision goes on to state that, "As someone who has a CSID he would be returnable either direct to Sulaymaniyah or via Baghdad", and that "He has the appropriate documents to enable travel from Baghdad if he chose to return that way" (at paragraph 55). The appeal was dismissed.

Grounds of Application

5. The grounds of application state that the judge erred materially in stating (at paragraph 55) to the Appellant being a person who had CSID documentation because the Appellant had always maintained that he was undocumented (as was clear from paragraph 4 of the skeleton argument and from paragraph 51 of the Appellant's witness statement). All that the judge had was a copy of the CSID of the person with whom the Appellant had an affair.
6. Permission to appeal was granted by the First-tier Tribunal on 20th May 2023 on the basis that it was arguable that the judge had erred in this respect because the issue as to whether the Appellant had a CSID was a material matter relevant to internal relocation.

Submissions

7. At the hearing before me on 29th August 2023, Mr Tan, the Senior Home Office Presenting Officer, submitted that despite what had been maintained in the Rule 24 response of 5th June 2023, he would have to concede that there was an error of law in the judge's decision. Mrs Johnrose, for her part, submitted that given that the judge had accepted the substance of the Appellant's claim insofar as the relationship with Wizdan Marhan was concerned, she would ask that the matter be remitted back to the First-tier Tribunal, with the positive findings of Judge Alis being retained. The matter did need to go back to the First-tier Tribunal because

it was not simply a question of the availability of the relevant documentation but also whether the Appellant could internally relocate as the judge had found. Mr Tan agreed that course of action.

Error of Law

8. I am satisfied that the making of the decision by the judge involved the making of an error of law because the judge's finding that the Appellant was a person who had a CSID was without foundation and went to the very question of the returnability of the Appellant back to Iraq.

Notice of Decision

9. The decision of the First-tier Tribunal involved the making of an error of law such that it falls to be set aside. I set aside the decision of the original judge. This appeal is remitted back to the First-tier Tribunal, to be determined by a judge other than Judge Alis, with all previous positive findings preserved, because pursuant to Practice Statement 7.2.(b) the nature or extent of any judicial fact-finding which is necessary in order for the decision in the appeal to be remade is such that, having regard to the overriding objective in Rule 2, it is appropriate to remit the case to the First-tier Tribunal.

Satvinder S Juss

Judge of the Upper Tribunal
Immigration and Asylum Chamber

18th October 2023