



**IN THE UPPER TRIBUNAL**  
**IMMIGRATION AND ASYLUM CHAMBER**

Case No: UI-2022-002639

First-tier Tribunal No: PA/2022/002639  
IA/01828/2020

**THE IMMIGRATION ACTS**

**Decision & Reasons Issued:  
On 9 August 2024**

**Before**

**UPPER TRIBUNAL JUDGE HANSON**

**Between**

**HIS  
(ANONYMITY ORDER MADE)**

Appellant

**and**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr McGarvey instructed by Seren Legal Practice.

For the Respondent: Ms Rushforth, a Senior Home Office Presenting Officer.

**Heard at Cardiff Civil Justice Centre on 10 July 2024**

**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 Browne ('the Judge'), who in a decision promulgated following a hearing at Newport on 4 February 2022 dismissed the appeal on all grounds.
2. The Appellant is an Iraqi national of Kurdish ethnicity born on 11 August 1995 who entered the UK on 24 May 2019 and sought a grant of international

protection on the basis he is at real risk of serious harm on account of a blood feud with the Mirawdeli Tribe.

3. The Appellant's claim was rejected by the Secretary of State on 16 October 2020, a decision upheld in a Respondent's Review of 3 January 2022.

4. The Judge, having considered the documentary and oral evidence, sets out the facts found from that evidence from [14]. Having analysed the various aspects of the claim under separate headings the Judge writes at [67] - [71]:

67. In his actions I find inconsistency with the level of risk claimed, that the documentary evidence that he has presented to the Tribunal is incomplete and the medical report he claims relates to his brother holds a major inconsistency (as referred to below). All this lead me to doubt that his problem is linked to the tribe described. This is without anything more and without a satisfactory explanation for those inconsistencies (when given opportunity to account/obtain such documents and having the possibility of doing so in the period of time that has elapsed whilst in the UK).

68. I find, as analysed in this decision, that his experience is not linked to the mirawdeli and the translation of his documents in the round do not ultimately lend support to his claim that his brother was shot on the date claimed. I do find that the appellant may have suffered some incident in Iraq but he has not accurately described it by the documents he seeks to rely on when claiming protection in the UK. It is indeed possible that he could have had guns shown to him from within a car, but he has not shown that these people are linked to that tribe or are after him for the reasons he claims and considering his evidence in the round that they are so powerful/influential as to put him at risk of serious harm wherever he goes in the IKR and/or other parts of Iraq.

69. So it is not for the lack of objective evidence which supports that there can be insufficiency of protection/inaction on reporting in Iraq. I find that if the appellant has reported any of these incidents to the police, something was done about it initially just as the respondent refers in their refusal. It makes no sense that a formal statement was not taken and cannot be evidenced on such a serious matter as a shooting when one brother is Peshmerga and something was done on his initial report. Even if a criminal gang or family members of any tribe came after him, this does not show that this was due to police corruption as claimed by him. If seen as claimed those particular men would know it was him who had seen him. However he had no profile for them to be able to circulate photographs of him and for men he does not know to come after him in other places of relocation. If they had been arrested they would know the allegation against them. The appellant had no threats in Khabat but claims he had to move from the border village. It is odd that he would have even gone to the village of Bawze knowing it was a drug smuggling village and that he had exposed drugs smugglers. These are inconsistencies in his account, even accepting that he has a family member there. He would have been leading those he feared straight to him. However even there it is his father who has said there was a risk to him rather than him coming to any harm.

70. I also find that the appellant is unlikely to be poor or poorly connected if his father has the funds and capability to make a film and appear in it. This gives his family a greater ability to influence those in authority for their own protection. I accept that on the other hand if he has such connections in the film industry, then his father is a more prominent person and both he and his family members are more likely to be discovered by those who have reason to silence him. This heightens his risk. However without a statement/letter from his father, translation of the film and for identity purposes and in the absence of reliable documentary evidence that the family have reported that risk and the injury date, as claimed, when considering his case in the round, his story is unlikely to be as stated by him.

71. The appellant was not made aware of any further threats when at one of his relatives. He confirmed that at asylum interview. He is not unable to or unwilling to avail himself of the help of the authorities in the country from which he has come. The hospital report which could have strengthened his claim that he and his brother were shot; at does not. He remained for some time at his last family members

location and did not actually suffer harm. I find that this evidence also means he can safely relocate including to a family member, or with the help of other extended family members. I find his claim which could amount to discovery in 3 separate places relies on his father telling him he is at risk. I have no evidence from his father, bar a copy of an identity card, that has no date of birth on it. The actual facts speak for themselves that the lapse of time in every respect makes his account of events, unlikely that this is an ongoing family feud attracting a serious risk of harm and from which there is an insufficiency of protection in Iraq/IKR.

5. At [77] - [79] the Judge writes:

77. I find that the appellant has not shown that he is in fear from a senior member/influential member of the Mirawdeli/ the tribe and in part this is because of his failure to provide documents that are capable of backing up his claim and which when looking in the round become unreliable documents that actually take away from consistency in his claim. When coupled with a delay in making his claim, this undermines his credibility and this is even when weighing in the fact that he is specific and stands by his own account in his asylum interview and subsequent statements and to the Tribunal. The appellant's general concerns that he will not be properly protected from harm by the police is supported to a degree by the objective evidence but the appellant's expert evidence also gives a specific example of a person in a senior position having been arrested.
78. I find that despite his claim that he has somehow found out that they are tribal members from his father, he has not shown the family's link to the Mirawdeli tribe by his experts evidence. This leaves him with his personal evidence relating to people who he fears that are involved with drug smuggling; a criminal family gang. It is for him to show that he has reported a family for drugs and that his family have reported the threats and shooting. If he has done so the background evidence shows he could have real cause for concern and be at risk of serious harm, not necessarily from the tribe claimed but from the family/ men who work for a local powerful person. This is because his evidence is that they know where three sets of his family members live.
79. In this respect due to the number of times he says he has reported and the locations of those reports and the fact that he has access to evidence from abroad I find there is a big hole in his evidence. He has nothing at all to support the fact that he and his family have made complaints to the police. The evidence from the hospital is illegible and some of it typed. The typed part gives a date earlier than the shooting of his brother and at that time his brother had not been shot at. This is completely inconsistent with his claim. It is not the handwritten date that is in issue but a typed date. So my finding is that the appellant has not presented evidence that his brother and he were shot at on the date concerned which he very clearly describes and confirms as being on that date.

6. The Judge goes on to consider the issue of identity documents from [80] at [87] the Judge writes:

87. I find that it is unlikely the appellant gave his identity card to a smuggler, in all the circumstances of his case. It is likely still in existence, is valid and he may even be able to obtain it from abroad but has chosen not to do so. I find that even if returned to Baghdad as stated by the respondent that this appellant can travel on accordingly or be met by family. He does have access to an existing CSID and he has not shown that he is unable to obtain replacement whilst in the UK so it is unlikely that return to Iraq would be in breach of Article 3 ECHR. He is not an appellant as submitted, in accordance with SMO, KSP & IM (Article 15(c); identity documents) Iraq CG [2019] UKUT 00400 (IAC) that is at risk of Article 3 ill treatment and unduly harsh conditions for this reason. The representative's submission that his local CSA office is in Khabat, is not supported by the identity documents he has produced for other family members and as he was not born there.

7. The Secretary of State in the refusal letter stated the Appellant will be removed to the IKR but the Judge refers to Baghdad in accordance with SMO.

8. At [92] the Judge writes:

92. I find that the appellant has family members that could assist him on return and relocation and that he can relocate safely and reasonably to the IKR with CSID retrieved, the issuance of a CSID by proxy, as he is likely to obtain copies just as his family have done. His family were all documented, likely they still are on the timing of the documents that were sent to the appellant from abroad and that they can travel to him once he is back or continue to be in contact to assist him, if, and as needed. He has brothers as well as his uncles, cousin, their partner, he is well connected. Even if there was some harm threatened to him around the time, I find that in all the circumstances of his case he is not unsafe wherever he goes in Iraq/ Kurdistan / the IKR or from the nexus of state, non- state and rogue state agents, in the forms of the GOI, of militias in all their forms, of Islamic extremists and of the tribal and security situation in Iraq. He does not have additional adverse characteristics to show that this is likely and he can reasonably, feasibly travel, relocate within IKR.

9. The Appellant sought permission to appeal on two grounds. Ground 1 asserts a failure to correctly apply the country guidance case of SMO, KSP & IM (Article 15 (c); identity documents) Iraq CG [2019] UKUT 400 (IAC).

10. It is stated in the Reasons for Refusal letter it was accepted Appellant was not in possession of his identity documents and there is no finding by the Judge that the Appellant is in possession of his CSID or INID. It is pleaded the Judge's finding that the Appellant could obtain replacements whilst in the UK is contrary to the decision in SMO and the Respondents CPIN (Iraq) June 2020.

11. The grounds refer to [19] of the determination which it was found it was likely that the Appellant's local CSA office is in Baswe in Sulaymaniyah in the IKR, and that the Appellant would have to travel to the office to be re-documented which will be impossible without his CSID or and INID.

12. Ground 2 asserts the Judge failed to adequately set out the basis for the finding the Appellant can re-document himself and/or is in possession of a CSID, by reference to [87] and [92] of the determination under challenge. It is also stated the finding at [92] is in direct contradiction of the finding at [96] and the finding at [87] that the Appellant does not have access to an existing CSID.

13. Permission to appeal was granted by another judge of the First-tier Tribunal on 30 May 2022, the operative part of the grant. The following terms:

1. The in-time grounds of appeal allege that the Judge erred in (1) failing to correctly apply the Country Guidance case of SMO, KSP & IM (Article 15(c); identity documents) Iraq CG [2019] UKUT 00400 (IAC); and (2) failing to give adequate reasons for findings on material matters.
2. There is an arguable error of law. The Judge made findings at [87] that the appellant does have access to an existing CSID, that it is unlikely that the appellant gave his identity card to a smuggler and that the appellant may be able to obtain it from abroad but has chosen not to do so. However, it is arguable that in the Judge has failed to give adequate reasons as to how she reached these findings.
3. Permission to appeal is granted.

### Discussion and analysis

14. Mr McGarvey submitted that the Judge's findings are not within the range of those reasonably open to the Judge on the evidence.

15. The Appellant claimed he did not have access to his identity cards and that he will experience problems on return as he did not have the identity cards. It was submitted although the Judge found the Appellant had access to his CSID and/or that his family could bring it to him, that was not within the range of findings open to the Judge on the evidence.

16. Whatever the Appellant may have claimed, the Judge did not accept that he had established that the reason he claimed he was entitled to a grant of international protection is true. That is a finding within the range of those reasonably open to the Judge on the evidence and is supported by adequate reasons. This lack of credibility extends to consideration of the documentary evidence.
17. The Judge records a number of concerns in relation to the ID documents, and at [87] finds it unlikely the Appellant gave his identity card to a smuggler as claimed and it is still in existence, is valid, and that he may even be able to obtain it from abroad from his family but has chosen not to do so. That is a finding within the range of those available to Judge on the evidence as a whole.
18. Miss Rushforth on behalf of the Secretary of State confirmed that as an Iraqi Kurd return would be to Sulamaniya in the IKR. The error by the Judge in considering Baghdad was not material as the finding of the Judge in relation to availability of identity documents and the Appellant's access to them, whether from the UK with the documents being sent to him, or his family travelling to meet him at the airport and handing him his ID documents, has not been shown to be a finding outside the range of those reasonably available to the Judge on the evidence to which ever airport he is returned.
19. It is not made out the Judge failed to consider the evidence with the required degree of anxious scrutiny. The Judge clearly did.
20. The Judge considered issues relevant to determining the merits of the appeal. Concerns set out in the Refusal letter were not adequately addressed in the Appellant's evidence. The evidence before the Judge undermined what the Appellant was saying in relation to his entitlement to a grant of international protection or leave in any other basis, or simply did not prove what he was claiming, even to the lower standard.
21. It is not made out the Judge's findings are outside the range of those reasonably open to the Judge on the evidence. I do not find it made out that the Judge's conclusions are rationally objectionable.
22. Although the Appellant may prefer a more favourable outcome to enable him to remain in the United Kingdom, the grounds fail to establish legal error material to the decision to dismiss the appeal.

### **Notice of Decision**

23. No error of law material to the decision to dismiss the appeal has been made out. The determination shall stand.

**C J Hanson**

Judge of the Upper Tribunal  
Immigration and Asylum Chamber

**31 July 2024**