



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2022-006686

First-tier Tribunal No: PA/52226/2021

THE IMMIGRATION ACTS

Decision & Reasons Issued:

On 28th of June 2024

Before

UPPER TRIBUNAL JUDGE KAMARA

Between

AHA
ANONYMITY ORDER MADE)

Appellant

and

Secretary of State for the Home Department

Respondent

Representation:

For the Appellant: Ms A Sepulveda, counsel instructed by Fountain Solicitors Ltd
For the Respondent: Mr C Bates, Senior Home Office Presenting Officer

Heard at Manchester Civil Justice Centre on 17 June 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

Introduction

1. The appellant has been granted permission to appeal the decision of First-tier Tribunal Judge McAll dated 9 April 2022.

2. Permission to appeal was granted by First-tier Tribunal Judge Brewer on 17 August 2022.

Anonymity

3. An anonymity direction was made previously and is maintained because this is a protection appeal.

Factual Background

4. The appellant is a national of Iraq, of Kurdish ethnicity, now aged twenty-seven. He entered the United Kingdom clandestinely during 2020 and sought asylum on the basis that he was at risk of an honour crime owing to having had an illicit sexual relationship. That claim was rejected by the Secretary of State in a decision letter dated 10 February 2021.

The decision of the First-tier Tribunal

5. The First-tier Tribunal judge did not find any aspect of the appellant's account to be credible including his account of having no contact with any member of his family. The judge found that the appellant had sufficient evidence and information to apply for a replacement Iraqi passport and it was not accepted that the appellant did not have access to his CSID card.

The appeal to the Upper Tribunal

6. The grounds of appeal upon which permission was granted are seven-fold:

Firstly, a higher standard of proof had erroneously been applied.

Secondly, there had been a failure to give reasons for rejecting the appellant's account of going into hiding.

Thirdly, an unreasonable finding had been made regarding one aspect of the case.

Fourthly, complaint was made regarding the access to CSID issue.

Fifthly, contradictory findings were made regarding a replacement CSID.

Sixthly, there were inadequate reasons given for rejecting the core of the account.

Lastly, the judge had failed to explain why the appellant could not be mistaken.

7. Permission to appeal was granted on the basis sought, with the judge granting permission making the following remarks.

The grounds of challenge do disclose arguable errors of law, specifically an inadequacy of reasons. It is arguable that the judge provided no reasons at [29] for finding this aspect of his account implausible. It is arguable that the judge in reaching her finding at [28] failed to take into account the country evidence set out at [25] of her decision and/or in the light of this evidence it was irrational to find that the appellant should have enquired from K.A.'s family how they discovered their clandestine relationship.

Given the above arguable errors concern the assessment of credibility all the grounds are arguable.

8. The respondent filed no Rule 24 response.

The error of law hearing

9. The matter comes before the Upper Tribunal to determine whether the decision contains an error of law and, if it is so concluded, to either re-make the decision or remit the appeal to the First-tier Tribunal to do so. The hearing was attended by representatives for both parties as above. Both representatives made submissions and the conclusions below reflect those arguments and submissions where necessary. A bundle was submitted by the appellant containing, inter alia, the core documents in the appeal, including the appellant's and respondent's bundles before the First-tier Tribunal.

Discussion

10. Grounds one to three contain little more than disagreement with the conclusions of the judge regarding a short series of discrete issues. The focus on these issues ignores the many other unchallenged findings of the judge as to the lack of credibility to every aspect of the appellant's account.
11. In the first ground it is contended that the judge applied a higher standard of proof owing to his singular use of the word 'incredible.' The judge correctly self-directed himself at [21] regarding the standard of proof and clearly applied that standard at every stage during what was a careful and detailed decision. The judge's comment at [30] that he found it 'incredible' that the appellant would not have contacted an uncle (whom the appellant claimed had saved his life and helped him to leave Iraq) was a finding the judge was entitled to make.
12. The second ground contains an assertion that the judge failed to give reasons for rejecting the appellant's claim that he 'hid' for 9 days with a relative without his parents becoming aware of this. At [29], the judge set out the extent of the appellant's family in Iraq, in that it was limited to his parents and three uncles. The appellant was staying with one of the uncles. In this context, the judge cannot be criticised for arriving at the finding he did.
13. It is argued, in the third ground, that the judge was 'unreasonable' in finding that the appellant's lack of curiosity as to how the family of his girlfriend discovered the claimed relationship lacked credibility. This focus on a minor comment by the judge serves to distract from the many paragraphs of unchallenged finding where the judge rejects every aspect of the appellant's claim that his life is at risk owing to a relationship.
14. By way of example, at [27] of the decision, the judge notes the appellant's evidence that after his girlfriend informed him that she was pregnant he left Iraq without making any attempt to speak to her again or try and get her to safety. The appellant's evidence is that he made no attempt to find out where she or his child were subsequently, either via his uncle or via a friend of his girlfriend despite having been in a two-year committed relationship. The judge did not find this account to be credible. At [33] the judge concluded that the appellant had 'fabricated' his account, that he had no reason to fear his family and could return safely to Iraq.

15. Grounds four to seven essentially contend that the judge's findings regarding the documentation issue were inconsistent and lacked adequate reasons.
16. The starting point is that the judge disbelieved every aspect of the appellant's claim including what he had to say about his passport and CSID card. At [36] the judge notes that the appellant had declined to provide a copy of the photograph of his passport which the appellant claimed to have on his telephone. At [37], the judge notes that the appellant has provided several inconsistent accounts as to the whereabouts of his CSID including that he has never seen it, that it was taken by an agent and that he left it in Iraq. Given these unresolved discrepancies, the judge was entitled to conclude that the appellant's claims regarding his documentation lacked credibility and that the appellant had access to his CSID card.
17. The criticisms of the judge's treatment of the documentation issue are immaterial and do not engage with the judge's overall findings.
18. The grounds identify no material error of law.

Notice of Decision

The making of the decision of the First-tier Tribunal did not involve the making of an error on a point of law.

The decision of the First-tier Tribunal shall stand.

T Kamara

Judge of the Upper Tribunal
Immigration and Asylum Chamber

24 June 2024

NOTIFICATION OF APPEAL RIGHTS

1. A person seeking permission to appeal against this decision must make a written application to the Upper Tribunal. Any such application must be **received** by the Upper Tribunal within the **appropriate period** after this decision was **sent** to the person making the application. The appropriate period varies, as follows, according to the location of the individual and the way in which the Upper Tribunal's decision was sent:
2. Where the person who appealed to the First-tier Tribunal is **in the United Kingdom** at the time that the application for permission to appeal is made, and is not in detention under the Immigration Acts, the appropriate period is **12 working days (10 working days, if the notice of decision is sent electronically)**.
3. Where the person making the application is in detention under the Immigration Acts, **the appropriate period is 7 working days (5 working days, if the notice of decision is sent electronically)**.
4. Where the person who appealed to the First-tier Tribunal is **outside the United Kingdom** at the time that the application for permission to appeal is made, the appropriate period is **38 days (10 working days, if the notice of decision is sent electronically)**.

5. A “working day” means any day except a Saturday or a Sunday, Christmas Day, Good Friday or a bank holiday.

6. The date when the decision is “sent’ is that appearing on the covering letter or covering email