



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2022-006687
First-tier Tribunal No:
PA/52567/2021
IA/08460/2021

THE IMMIGRATION ACTS

Decision & Reasons Issued:
On the 25 July 2024

Before

UPPER TRIBUNAL JUDGE KEBEDE

Between

MQM
(Anonymity Order made)

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms G Patel, instructed by Broudie Jackson Canter Solicitors
For the Respondent: Ms Z Young, Senior Home Office Presenting Officer

Heard at Manchester Civil Justice Centre on 19 July 2024

DECISION AND REASONS

1. The appellant appeals, with permission, against the decision of the First-tier Tribunal which dismissed his appeal against the respondent's decision to refuse his asylum and human rights claim.

2. The appellant was born on 20 April 1992 and is a national of Iraq of Kurdish ethnicity, from Dukan, Suleymaniya. He arrived in the UK on 25 April 2020, having travelled through Turkey and Italy and then by boat from France. He was encountered on arrival and served with illegal entry papers and he claimed asylum on 26 April 2020. His claim was refused on 23 April 2021. He appealed against that decision.

3. The appellant's claim was made on the basis of problems arising from his relationship with his girlfriend S whom he had met in March 2019 at a wedding party which he was attending as the photographer. S came to his shop to collect the wedding photographs and they kept in touch through visits and on the telephone,

although they kept their relationship secret. The appellant claimed that he and S discussed marriage but she said that her family wanted her to marry her cousin. The appellant said that he told his father that he wanted to marry S but his father said that they were not suitable because her family had enemies. He went to her family himself and made the proposal but S's family refused. The appellant claimed that he continued to stay in touch with S by telephone through a friend and he advised her to go to an anti-violence women's refuge for protection and inform her family that she did not want to marry her cousin. He claimed that whilst she was in the refuge her family tried to convince her to come home and her brothers came to his shop and made threats to him and damaged his shop. They then both escaped to Erbil and left Iraq together on 10 December 2019. The appellant said that he left behind his passport and CSID. He claimed that they travelled to Turkey with an agent in February 2020 but were then separated from each other by the agent and he had not seen S since then. The appellant claimed that his father had disowned him and his mother told him not to contact her again. He stated that he feared S's family and his own family.

4. The respondent, in refusing the appellant's claim, did not accept his account of his relationship and of threats from both families, noting that he had stated in his screening interview that he did not have a partner and that, in amendments to the screening interview sent in by his solicitors, he made no mention of problems in Iraq. The respondent noted further inconsistencies in the appellant's evidence and rejected his account of S's father having a friend who was a powerful man in the government. The respondent considered that the appellant could return to his home area and that even if he believed himself to be at risk he could access a sufficiency of protection from the authorities or alternatively he could relocate to another part of the KRI. The respondent considered that the appellant could obtain his identity documents from his family in Iraq.

5. The appellant's appeal against that decision was heard by First-tier Tribunal Judge Alis on 4 April 2022. Judge Alis did not find the appellant's account to be credible and rejected his claim to have been disowned by his family. The judge rejected the claim that there was a blood feud and did not accept that the appellant was at risk of an honour killing. He did not accept the appellant's account of threats and did not accept that he had stopped speaking to his family. He considered that the appellant could obtain his CSID or INID from his family and that he could therefore travel to his home area. The judge dismissed the appellant's appeal in a decision promulgated on 9 April 2022.

6. The appellant sought permission to appeal to the Upper Tribunal against Judge Alis's decision on three grounds. Firstly, that the judge had failed to consider material matters; secondly, that the judge had failed to give adequate reasons for his findings; and thirdly that the judge had failed properly to apply the guidance in SMO, KSP & IM (Article 15(c); identity documents) CG Iraq [2019] UKUT 400.

7. Permission was granted in the First-tier Tribunal on all grounds. The respondent filed a rule 24 response opposing the appeal.

8. The matter then came before me for a hearing and both parties made submissions. The submissions are addressed in my analysis below.

Analysis

9. The appellant's grounds have been set out clearly in Ms Patel's skeleton argument and I shall therefore refer to the grounds with reference to that document.

10. The appellant's first ground takes issue with the judge's adverse credibility findings. Ms Patel, in her submissions referred in particular to the findings at [56] to [60] which she submitted failed to take account of the appellant's evidence in his statement. At [56] the judge found the fact that S was allowed a mobile phone and was allowed to go to the shops unaccompanied undermined the appellant's claim that she was under suspicion from her family and undermined the credibility of the whole claim. Ms Patel submitted that the judge failed to have regard to the appellant's evidence in his statement at [49], that S was the only female in the family and was a medical student, implying that she was given some freedom by her family. She submitted that the judge also failed to consider the appellant's evidence at [54] and [55] of his statement, that his number had been deleted from S's telephone by her family and that her phone was being monitored so that it was safer to communicate through a friend. Ms Patel submitted that since that was the primary reason why the judge rejected the appellant's account of his relationship with S, his decision was flawed.

11. I find no merit in such an assertion and I reject the suggestion that the judge failed to take account of the appellant's explanations and responses to the respondent's concerns in his statement. The judge clearly had full regard to the appellant's statement, confirming at [51] that he had taken account of all the evidence, and making specific references to the statement in his findings thereafter. He was not required to address each and every point made by the appellant and I reject the suggestion that he simply ignored that evidence. Essentially this is an attempt to re-argue the appellant's case and a disagreement with the judge's findings on the evidence. The judge was perfectly entitled to find the appellant's account of S's circumstances to be inconsistent with a family willing to be involved in an honour killing and he was entitled to consider that that undermined the credibility of the entire claim.

12. Ms Patel also challenged the judge's findings at [57] and [58] whereby he found it lacking in credibility that the appellant would have travelled from his home area without his CSID or INID, submitting that the judge had failed to have regard to the appellant's response to the relevant questions put to him at his interview. However, as mentioned in relation to the previous ground, the judge was not required to refer to and respond to each and every part of the appellant's evidence and the fact that he did not specifically refer to the appellant's evidence at his interview did not mean that he ignored it. On the contrary the judge made it clear that he had considered all parts of the evidence and he specifically referred to the appellant's interviews in his findings. The judge provided cogent reasons at [57] and [58] for having concerns about the appellant's evidence in that regard and was perfectly entitled to draw the adverse conclusions that he did. There was nothing inconsistent in the judge's conclusions with the guidance in SMO about documents being checked and the risks of not having documentation, but in any event even if that did not specifically apply within the IKR the judge noted that the appellant's own evidence was that travelling without his documentation was a risk.

13. Likewise, the judge was entitled to draw the adverse conclusions that he did at [59] about the appellant's claim to have become separated from S. The grounds seek to challenge the judge's findings in that respect on the basis that he failed to consider the appellant's explanation about him and S being separated by the agent, but that is

clearly not the case. The judge was fully aware that that was the appellant's claim, as specifically set out at [25]. There was nothing in the appellant's response to question 38 of the interview that undermined the judge's findings at [59] or the reasons he gave for making those findings. The same can be said for the judge's findings at [60] about the appellant's reasons for not claiming asylum en route to the UK which, again, clearly took account of the appellant's evidence in his interview.

14. The final part of ground one returns to the issue of documentation and is addressed at [12] above. The judge's findings at [64] to [66] were made with reference to, and consistent with, the guidance in SMO. Although the respondent's rule 24 response refers to the current position of failed asylum seekers being returned directly to the ICR, the judge was considering the situation at the time of the hearing before him. In any event nothing material arises from this as the judge properly concluded that the appellant would be able to access his identity documents, namely his CSID or INID, for the reasons given at [62]. Having rejected the appellant's claim to have no contact with his family, the judge was fully entitled to conclude that he could access his documents through his family if it was the case that he did not have them with him in the UK and if, as he was claiming, he had left the documents at his family home.

15. For all of these reasons I find no merit in the first ground. The challenges made in that ground are, as I have said above, no more than an attempt to re-argue the appellant's claim and a quarrel with the judge's findings. The judge's findings were based upon a full and careful assessment of all the evidence and were fully and properly open to him. The second ground adds little or nothing to the first ground, asserting that the judge failed to give proper reasons for his findings at [62]. The conclusion at [62] was not made in isolation, as the challenge suggests, but rather followed the findings and reasons set out at [51] to [60] and simply tied those findings together. The challenge in the second ground is accordingly nothing more than a disagreement.

16. As for the third ground, that simply repeats the earlier assertion that the judge misapplied the guidance in SMO. For the reasons I have already given above, there is nothing, in my view, which is inconsistent with the guidance in SMO. The judge quoted from SMO at length and addressed the relevant parts of the guidance when considering the appellant's access to documentation. The findings and conclusions made in that regard were fully and properly open to the judge and I reject the assertion that there was any misapplication of the guidance.

17. For all these reasons I do not find the grounds to be made out. The judge did not find the appellant to be a reliable witness and did not accept his account of events in Iraq. His adverse findings were made on the basis of a full assessment of all the evidence and were fully and cogently reasoned. He was entitled to conclude as he did and his decision is accordingly upheld.

Notice of Decision

18. The making of the decision of the First-tier Tribunal did not involve a material error on a point of law requiring it to be set aside. The decision to dismiss the appeal stands.

Anonymity Order

The Anonymity Order previously made is continued.

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Signed: S Kebede
Upper Tribunal Judge Kebede

Judge of the Upper Tribunal
Immigration and Asylum Chamber

24 July 2024