



**Upper Tribunal
(Immigration and Asylum Chamber)**

Appeal Number: AA 06564 2007

THE IMMIGRATION ACTS

Heard at Field House

On 18 June 2014

Determination

Promulgated

On 12 February 2015

Before

**LORD MATTHEWS, SITTING AS AN UPPER TRIBUNAL JUDGE
UPPER TRIBUNAL JUDGE PERKINS**

Between

AWARA MOHAMED

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: No appearance

For the Respondent: Mr G Saunders, Senior Home Office Presenting Officer

DETERMINATION AND REASONS


1. In this case we see no need for an order restricting publication and we make no order.
2. This is an appeal by a citizen of Iraq against a decision of First-tier Tribunal who dismissed his appeal against the decision of the Secretary of State to remove him from the United Kingdom. It is his case that he is a refugee or otherwise entitled to international protection. In this case in particular he contended that he was entitled to humanitarian protection under the Qualification Directive. His appeal was dismissed by the First-tier Tribunal eventually on 22 May 2008 but found its way to the Court of Appeal and the Court of Appeal set aside that decision and ordered that the appeal be decided again in this Tribunal.

3. There was a directions hearing before Senior Immigration Judge Storey (as he then was) on 3 March 2011 and relevant part of that decision is in the following terms:

“I further direct that in the case of Mohamed the next hearing should proceed on the basis that the appellant had been found not credible in relation to aspects of his account save for:
(1) his Kurdish ethnicity;
(2) his Sunni religion faith; and
(3) his home area being Kirkuk.
This is a case in which the Immigration Judge has been found to have materially erred in law (see Court of Appeal consent order and accompanying statement of reasons dated 30 September 2009). In respect of this appellant the sole purpose of the hearing to come is to examine whether he faces risk on return applying current country guidance.”
4. When that decision was made on 3 March 2011 Judge Storey clearly contemplated a relatively swift disposal but that did not happen. We assume this was because this Tribunal was awaiting the decision of the Court of Appeal in the case we now know as **HM (Iraq) & Anor v SSHD** [2011] EWCA Civ 1536. That was a decision where the current country guidance was challenged. Subsequently the relevant guidance was affirmed in **HM and others (Article 15(c)) Iraq CG** [2012] UKUT 00409(IAC) which we must follow.
5. We are quite satisfied that the circumstances outlined by Judge Storey in his directions do not qualify a person for humanitarian protection or any other kind of protection.
6. There was no appearance before us. We are satisfied that proper service was effected on the appellant at his last known address for service, being an address in Middlesbrough, and on his then representatives, Refugee and Migrant Justice. Records show that notification was given by first-class post on 12 May 2014 and that gives ample time for the appellant or his representatives to have contacted us directly if there had been a query.
7. The appellant has not disappeared from the scene. Mr Saunders has produced a file note showing that the appellant presented himself to the Tees Reporting Centre in March 2014 where he expressed a desire to leave the United Kingdom. We have looked at this carefully. It cannot be properly construed as an indication that he wanted to abandon the appeal and it is not evidence that he has left the United Kingdom but it is evidence that as recently as March he was in contact with the authorities and made it plain he no longer wanted to remain in the United Kingdom.
8. Mr Saunders was further able to show that as recently as 10 June he was in contact with the authorities.
9. We do not think that the appellant has any real interest in pursuing this appeal or any expectation that it will be allowed. If he has been in contact with his solicitors who have given the kind of advice that could be expected from a competent firm of advisors who are aware of the country guidance then it is unsurprising that he has seen no point in making the journey from Middlesbrough.

10. We are satisfied on the evidence before us that he cannot show that he comes within the terms of the directive. We follow established case law and country guidance and we dismiss the appeal that is before us.

Signed
Jonathan Perkins
Judge of the Upper Tribunal



Jonathan Perkins

Dated 10 February 2015