



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

Appeal Number: PA/00636/2017

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 13<sup>th</sup> September 2017**

**Decision & Reasons  
Promulgated  
On 25<sup>th</sup> September 2017**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE ROBERTS**

**Between**

**MS A.A.H.M.  
(ANONYMITY DIRECTION MADE)**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr Moran

For the Respondent: Ms Willocks-Briscoe, Senior Home Office Presenting Officer

**Anonymity**

*Rule 14: The Tribunal Procedure (Upper Tribunal) Rules 2008*

An anonymity direction was made by the First-tier Tribunal. As a protection claim, it is appropriate to continue that direction.

## **DECISION AND REASONS**

1. The Appellant a citizen of Iraq (born [ ] 1953) appeals with permission against the decision of a First-tier Tribunal (Judge Devittie) dismissing her appeal against the Respondent's decision of 11<sup>th</sup> January 2017 refusing to grant her asylum. The Appellant's appeal came before the First-tier Tribunal at Taylor House on 20<sup>th</sup> February 2017 and the decision was promulgated on 14<sup>th</sup> March 2017.
2. The grounds seeking permission are short, focussing upon one narrow issue. The FtT judge, after hearing evidence from the Appellant, says at paragraph 6 of his decision;

"I accept the core of the Appellant's account of the events that caused her to seek asylum in the UK ..."

He then says at [10]

"I am satisfied for reasons that I now set out that the Appellant does have a well-founded fear of persecution in Baghdad: ....

(ii) I do not consider that it would be reasonable to expect the Appellant to locate within Baghdad. Firstly if she were to obtain employment in Baghdad, the same risk factors which caused her to seek asylum in the first instance would apply. .... I am satisfied that it would not be reasonable to expect this Appellant to locate either within Baghdad or outside Baghdad."

3. Following those findings the judge then set out a heading "Decision." Under that heading in an apparent contradiction to what he set out above, he says the following.

"The appeal is dismissed on asylum grounds."

## **UT Hearing**

4. Before me Mr Moran appeared for the Appellant, Ms Willocks-Briscoe for the Respondent. Mr Moran, following the lines of the grounds seeking permission, submitted that it was clear that the judge's decision to dismiss the appeal was in contradiction and inconsistent with the findings made in the substantive body of the decision. He submitted that clearly this was an error and that the appropriate course would be to set aside the decision preserving all findings and remake it substituting my own decision allowing the appeal.
5. Ms Willocks-Briscoe accepted that the findings of Judge Devittie were sustainable and that there was no challenge to those findings. She said that in these circumstances, she accepted that the decision notice set out by the judge was in error. She acknowledged that the reasoning contained within the body of the FtT's decision justified the Appellant's appeal being allowed and accepted that I should find that the judge had

erred and I should remake the decision by substituting my own, allowing the appeal.

6. Following that concession by the Respondent I find I am in agreement with the course set out by both representatives. The decision of Judge Devittie is hereby set aside for material error and I remake the decision allowing the Appellant's appeal against the Respondent's refusal to grant her asylum.

### **Notice of Decision**

The decision of the FtT is hereby set aside for material error. I remake the decision. The appeal of Ms A.A.H.M. against the decision of the Respondent dated 11<sup>th</sup> January 2017, refusing her claim to asylum, is allowed.

### **Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008**

Unless and until a Tribunal or court directs otherwise, the Appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify her or any member of her family. This direction applies both to the Appellant and to the Respondent. Failure to comply with this direction could lead to contempt of court proceedings.

Signed  
September 2017

C E Roberts

Date 23

Deputy Upper Tribunal Judge Roberts