



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

Appeal Number: PA/03033/2015

THE IMMIGRATION ACTS

**Heard at Columbus House, Sent to parties on:
Newport On 3 April 2017 On 10 May 2017**

Before

DEPUTY UPPER TRIBUNAL JUDGE L MURRAY

Between

**D A
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Neale, instructed by the Migrant Legal Project

For the Respondent: Mr Hibbs, Home Office Presenting Officer

DECISION AND REASONS

1. The Appellant is an Iraqi national. He entered the United Kingdom on 8 May 2015 and claimed asylum on the same day. The Respondent refused his application to be recognised as a refugee on 6 November 2015 and made a decision to remove him under section 10 of the Immigration and Asylum Act 1999. The Appellant appealed against this decision under section 82 of the Nationality, Immigration and Asylum Act 2002 and his appeal was dismissed by First-tier Tribunal Judge O'Rourke in a decision promulgated on 13

October 2016. The Appellant sought permission to appeal to the Upper Tribunal against this decision and permission was granted by First-tier Tribunal Judge Grant on 9 November 2016. The reasons for granting permission were that the findings of the First-Tier Tribunal were 'remarkably brief and unreasoned'. Permission was granted on all grounds.

2. There are four grounds of appeal. The first ground asserts that the First-tier Tribunal failed to give adequate reasons and take material evidence into account. This ground contends that the First-tier Tribunal gave inadequate reasons for finding that the Appellant's Ministry of Culture ID card was fake in view of the fact that the Appellant's expert Julia Guest established through her enquiries that he did work there and in view of the fact that the First-tier Tribunal failed to take into account the Appellant's evidence as to why the date of issue on the ID was after he left Iraq. The second ground is that the First-tier Tribunal did not give adequate reasons for rejecting Ms Guest's report. The third ground is that the First-tier Tribunal failed to take into account the evidence of Dr Law's psychiatric report in reaching his credibility findings. The final ground is that the First-tier Tribunal made an adverse finding in relation to the Appellant's work for the Iraq Journalist's Establishment which was not based on the evidence.

The Hearing

3. At the hearing Mr Neale expanded on his grounds of appeal and submitted that the decision was vitiated by multiple errors of law and should be remitted.
4. Mr Hibbs relied on the Rule 24 Response which sets out the Respondent's position that adequate reasons had been given for material findings and that as the evidence in respect of which findings was set out in the decision more detailed reasons were not required. Mr Hibbs submitted that there was many credibility issues and the Appellant had admitted he had lied. Dr Law's report did not make it clear that he would lie for the reasons given that he thought he would have a better chance of getting asylum. The Judge did not to make a large number of adverse findings. He simply did not believe his account because he lied. The Judge dealt with Dr Law's evidence. Further, the Ministry would not give out an ID card after an individual had left as this would be a serious breach of protocol because it would put those there at risk. The Judge found that the ID could not be a genuine one because of the spelling mistake and he did deal with Ms Guest's report. He did not need to make a finding as to whether the Appellant worked at the Ministry because he found it not credible that the documents would be dropped off. He could be excused for being brief.
5. In reply Mr Neale argued that Mr Hibbs was trying to rescue the decision by filling in reasons the Judge did not give. The Judge did not engage with Ms Guest's report and she by way of her contact had verified that the Appellant did work at the Ministry of Culture. It was the Appellant's account in his witness statement that this was a reissue of the ID card and this would

explain why a date postdating his departure would appear on it. The fact the Appellant had lied about one thing did not mean he would be lying about the other. A Judge who found that the evidence was consistent and plausible could have believed him notwithstanding his lie. The Appellant was not bound to succeed but had the Judge dealt with the evidence adequately and he could have reached a different conclusion. He brushed the points off with excessive brevity.

Discussion

6. The First-tier Tribunal Judge found that the Appellant was not a credible witness. His reasons for this finding are at paragraph 27 of his decision. The reason with which the Appellant takes issue in Ground 1 is set out at paragraph 27 iii of the decision:

“His supplying of a clearly fabricated ID card from the Ministry of Culture – putting aside the misspelling of ‘Culture’, it is clearly dated, on either of his accounts, as issued either fifteen, or three months after his departure from Iraq. It also does not correctly show his name”.

7. The Appellant, however, had provided a witness statement for the purposes of the hearing in which he explained at paragraph 22 (A5 of the Appellant’s bundle) that the card was a replacement of his ID card and that he had asked his brother to see if they could get hold of proof that he had worked there because he had lost his ID on route. He says that the ID was what they had sent him and that it was issued after he left. The First-tier Tribunal made no reference to this explanation and gave no reasons for rejecting it as an explanation for the fact that it was issued after his departure. This evidence was clearly material and the First-tier Tribunal was required to take into account.
8. The First-tier Tribunal also concluded that the Appellant did not work at the Ministry of Culture. In so concluding, one of the reasons given was that, despite Ms Guest’s report, his fake ID belied this (paragraph 28 (ii)). I find that this did not amount to an adequate reason for rejecting the report. Ms Guest is a journalist and filmmaker. It was of course open to the First-tier Tribunal to decide not to accept she was an expert. However, the First-tier Tribunal did not opine on her expertise. She provided evidence at paragraphs 5 to 7 of her report that in order to establish if the Appellant worked at the Ministry of Culture, she passed copies of his ID documents to ZS who had been her translator whilst she worked in Iraq. He was now a correspondent in America but retained contacts in Iraq. According to Ms Guest he had contacted the Ministry of Culture and spoken to the office manager who confirmed that the Appellant worked at the Ministry.
9. It follows from my findings in respect of the first ground that this further finding cannot stand. In any event I find that the First-tier Tribunal did not give sufficient reasons for rejecting the evidence in report that the Appellant had worked for the Ministry of Culture. Ms Guest’s report was, on the face of it, independent evidence which corroborated a core plank of the Appellant’s

case. The evidence that Ms Guest had verified the Appellant's employment through a chain of contacts was not engaged with no answer was provided as to why it did not support the Appellant's case.

10. I find that both of these errors are sufficiently material to warrant a remittal to the First-tier Tribunal before a Judge other than Judge O'Rouke.

Conclusions:

The making of the decision of the First-tier Tribunal did involve the making of an error on a point of law.

I set aside the decision.

Anonymity

The First-tier Tribunal made an order and I continue that order (pursuant to 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 him or any member of his 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

Dated : 3/05/2017

Deputy Upper Tribunal Judge L J Murray