



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

Appeal Number: PA037252016

THE IMMIGRATION ACTS

**Heard at Field House
On 14 July 2017**

**Decision & Reasons Promulgated
On 31 July 2017**

Before

UPPER TRIBUNAL JUDGE CRAIG

Between

**HKM
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr D Jones of Counsel instructed by Sutovic & Hartigan

For the Respondent: Mr N Bramble, Home Office Presenting Officer

DECISION AND REASONS

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

The appellant is a national of Iraq born in 1999 and accordingly still a minor. Because of his age and vulnerability it is appropriate to make an anonymity direction and I do so. 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.

1. This appeal came before me on 28 April 2017 when I found that the decision made by First-tier Tribunal Judge Oxlade had contained an error of law. It was as I made plain in my decision following that hearing a relatively minor error, but nonetheless a significant one and I repeat in this decision what I have already stated, which is that it is abundantly clear from the very thorough way in which the judge considered this claim that she had considered the claim with very great care indeed. I do not propose to do more now than set out a summary of what I found in my earlier decision.
2. The appellant, who is from Kirkuk in Iraq, left with other members of his family in September 2015 and travelled with them to Turkey. In the course of coming to this country tragically his parents and sister died and he was eventually granted discretionary leave to remain in the UK until his 18th birthday, but his claim for asylum/humanitarian protection was not allowed.
3. When considering the appellant's appeal against this decision Judge Oxlade found that the appellant was entitled to protection under Article 3 of the European Convention on Human Rights which gave him most of the protection that he was seeking, but rejected his claim for asylum under the Refugee Convention, the basis of her decision being that although he would be at risk on return, that was not for a Convention reason. In the course of her decision Judge Oxlade did consider very carefully whether or not internal relocation was an option and gave very detailed reasons why in the particular circumstances of this case it was not. The only issue which was before this Tribunal was whether or not the appellant should have been recognised as a refugee on the basis that he would be at risk on return from two particular families and if he was, whether or not that would be for a Convention reason, essentially because he was a member of his particular family.
4. Before the hearing I was provided with an expert report which deals with the tribal issues involved and very helpfully Mr Bramble on behalf of the respondent has accepted that in light of that report and also the findings which had previously been made by Judge Oxlade, the respondent does not now seek to challenge that this appellant would indeed be at risk in his home area for a Convention reason, namely because of his membership of his own family, which for the purposes of the Refugee Convention is a "particular social group". He points out correctly that in the refusal letter the challenge was made on the basis not that the appellant was not a member of a particular social group, but that internal relocation was an option which was properly open to him. In light of the findings made by Judge Oxlade with regard to this particular aspect of the claim which the respondent has not sought to challenge, the objection to the grant of asylum on refugee grounds falls away. He also properly notes that in any event, in light of the expert evidence which has now been adduced, the

respondent could not properly sustain an objection on the basis that his claim that he would be at risk of persecution in his home area for a Convention reason could be maintained.

5. I entirely agree; the evidence which was accepted within the refusal letter was that there was an ongoing feud between the appellant's family and the two other families, and in light of the expert evidence which is now before the Tribunal, I find on the balance of probabilities (which is a higher standard of proof than is necessary) that there was a tribal aspect to this matter. However, even if there was not, the reason why this appellant would be at risk on return to his home area (whether or not the members of the other families would be "honour bound" to continue this feud against him) would be by reason of his membership of his family which is a particular social group. In these circumstances, the risk he would face on return to his home area, which is not a matter in dispute, would be for a Convention reason.
6. It follows that as it is now accepted in light of Judge Oxlade's findings that the appellant cannot properly be expected to relocate internally within Iraq, for the very clear reasons which she gave, he is entitled to asylum under the Refugee Convention.
7. Accordingly, I will so order.

Decision

The finding by Judge Oxlade that the appellant is not entitled to protection on asylum grounds is set aside by reason of error of law, and the following decision is substituted:

The appellant's appeal is also allowed on asylum grounds.

Signed:

A handwritten signature in black ink that reads "Ken Craig". The signature is written in a cursive style with a large, looped 'C' at the end.

Upper Tribunal Judge Craig

Date: 25 July 2017