



**Upper Tribunal  
(Immigration and Asylum Chamber)  
PA/05746/2016**

**Appeal Number:**

**THE IMMIGRATION ACTS**

**Heard at North Shields**

**On 11<sup>th</sup> October 2017**

**Decision & Reasons  
Promulgated  
On 19<sup>th</sup> October 2017**

**Before**

**UPPER TRIBUNAL JUDGE CHALKLEY**

**Between**

**JEGER HAKIM RIZA  
(ANONYMITY DIRECTION NOT MADE)**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: Ms M Bracaj, Counsel instructed by Halliday Reeves Law Firm

For the Respondent: Mr D Mills, Home Office Presenting Officer

**DECISION AND REASONS**

1. The appellant is a citizen of Iraq, who was born on 27<sup>th</sup> October 1995. He seeks to challenge the determination of First-tier Tribunal Judge Henderson who, on 4<sup>th</sup> January 2017, at North Shields, dismissed the appellant's appeal against the decision of the Secretary of State to refuse him asylum in a letter dated 26<sup>th</sup> May 2015. The appellant was represented by Ms Bracaj and the respondent represented by Mr Mills, a Home Office Presenting Officer.

2. The appellant is an ethnic Kurd from a village in the area of Sulaiman Bek in Iraq. His home village is called Yafa. Since June 2014, his village has fallen under the control of ISIS as a result of which his family fled towards the mountains. Unfortunately, they became separated. In November 2015 Hashdi Al-Shabi took over and drove away the Peshmerga and destroyed and burned the village.
3. The appellant claimed to have been in touch with his uncle who warned him not to return to Iraq. His uncle was able to arrange for the appellant's identity documents to be sent to the appellant. Mr Mills told me that the identity documents sent by the appellant's uncle would enable the appellant to obtain a CSID. The judge did not accept the appellant's claim that he had no contact with any family members in Iraq and did not accept that the appellant had been straightforward about his contact with family members. He rejected the appellant's account of having lost contact with both his brother and uncle, because during the screening interview he said that he could obtain his ID from Iraq and this he was able to do. The judge believed that this indicated that the appellant had been able to contact his home.
4. Ms Bracaj suggested that this was an illegal finding by the judge because he had failed to take into account that there continues to be uncertainty and disruption in the region and even though the appellant may have obtained documents from Iraq, this does not necessarily mean that any family members who helped him with those documents would *still* be there, or that the appellant would *still* be in contact with them. There was a lack of basic infrastructure in the area and it could not be said that in those circumstances the appellant could not have lost contact with his family members. There is no basis for the judge's finding and it fails to consider the background evidence, she submitted.
5. When considering whether or not the appellant could relocate, the judge noted that there was nothing to suggest that he would not be able to seek employment. However, he went on to point out that there was no evidence to suggest that he would be able to obtain employment, said Ms Bracaj. The judge failed to take into account the fact that the appellant would have to make his way to the IKR and that he is suffering depression. These matters were not considered by the judge. However, his medical condition must be taken into account in relation to his ability to relocate and find employment. It would be extremely difficult for him to find employment given his medical condition urged Ms Bracaj.
6. Mr Mills suggested that the judge had given perfectly adequate reasons for finding that the appellant had not been wholly truthful in relation to contact with family members. He had noted that since the appellant had been in the United Kingdom, he had made contact with family members and obtained identity documents which would enable him to obtain a CSID card. The findings of the judge were findings which, on the evidence, were open to the judge to make.

7. So far as the second challenge is concerned, the judge noted that the appellant was suffering from depression and is in receipt of medication. The judge also noted that this medication is available in the Iraqi/Kurdish region. The appellant would be returned to Baghdad. He would be in possession of a CSID card and would be able to transit to Erbil the same day if he was concerned about staying in Baghdad. Once in Erbil, there is no reason to believe that he should not be able to find some employment despite his depression. He is a 21 year old, otherwise fit and healthy, male. He would be in possession of a CSID card which in IKR would give him access to benefits, rations etc.
8. I reserved my determination.
9. The appellant is a Kurd who speaks Sorani. The judge noted that the appellant does not speak fluent Arabic and has no family support or links to Baghdad. He found that it would be unduly harsh for the appellant to be returned to Baghdad.
10. The current country guidance case relating to Iraq is *AA (Article 15(c)) Iraq CG [2015] UKUT 00544 (IAC)*, chaired by Upper Tribunal Judge Peter Lane (as he was then). In relation to internal relocation within Iraq, AA points out that a Kurd who does not originate from the IKR can obtain entry for ten days as a visitor and then renew this entry permission for a further ten days. If he were then to find employment, he can remain longer, although he will need to register with the authorities and provide details of the employer. There is no evidence that the IKR authorities proactively remove Kurds from the IKR whose permits have come to an end. The IKR is said to be virtually violence free. AA also makes it clear that having a civil status identity document, there are other ways in which it is possible for an Iraqi national of the United Kingdom to obtain a passport or a *laissez passer*. Where an appellant is returned to Iraq on a *laissez passer* or expired passport, they will be at no serious risk of harm at the point of return by reason of not having a current passport or other current form of Iraqi identification document.
11. This appellant does, apparently, have sufficient evidence of identity to be able to obtain a civil status identity document.
12. The appellant will return to Baghdad, but since it is not safe for him to remain there, he would have to transit Baghdad en route to IKR. It is clear from AA that the appellant would be able to obtain entry for ten days, as a visitor, and then renew his entry permission for a further ten days. If he were to find employment then he could remain for longer. The judge noted that the appellant suffers from anxiety and depression and this reached a critical point prior to his substantive interview when, apparently, he attempted to hang himself. This substantive interview was conducted in May 2006 and yet at the time of the hearing before Judge Henderson in North Shields on 4<sup>th</sup> January 2017, there was no up-to-date medical report. There was a letter confirming that he is receiving treatment for depression and is in receipt of medication, but as the judge properly pointed out, that treatment is available in the IKR.

13. At paragraph 43 of the determination the judge noted that the appellant had last visited a doctor three weeks before the First Tier Tribunal hearing and he received no evidence at all as to whether or not the appellant was fit for work or employment should he be returned to Iraq. He is a young man who, apart from depression, is otherwise in good health.
14. I have concluded that the judge has given adequate reasons for finding that the appellant has not been entirely truthful about his family members. He claimed that he had no contact with family members in Iraq now and that he had spoken to his uncle before his interview. However, between his substantive interview and the appeal hearing he very clearly had been in contact with somebody in Iraq, who provided identity documents for him. The judge was entitled to reject the appellant's account that he had lost contact with family members, because very clearly, he had made contact. The appellant did not claim to have been in touch with relatives, but since receiving his documents to have lost contact with them.
15. I believe that the judge was entitled to find that the appellant could relocate to IKR. Employment may be difficult to find, but there is no evidence before me that his current condition means that he cannot work. Apparently, the appellant helped his father with the farm and has, according to his initial contact record, worked in a shop, so that he is not entirely without skills.

### **Notice of Decision**

16. I have concluded that the determination of First-tier Tribunal Judge Henderson did not involve the making of an error on a point of law. His decision shall stand. The appellant's appeal is dismissed.

### **Anonymity Direction**

The First-tier Tribunal Judge made a direction regarding anonymity in accordance with Rule 13 of the Tribunal Procedure (First-tier Tribunal) (Immigration and Asylum Chamber) Rules 2014 directing that no report of the proceedings should directly or indirectly identify the appellant or any member of his family. I can see no basis on which such a direction was made. **I direct that the anonymity direction shall no longer apply.**

### **TO THE RESPONDENT** **FEE AWARD**

I have dismissed the appeal and therefore there can be no fee award.

***Richard Chalkley***  
**Upper Tribunal Judge Chalkley**