



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

Appeal Number: PA/01980/2016

THE IMMIGRATION ACTS

**Heard at Bennett House, Stoke-on-Trent
On 8th December 2017** **Decision & Reasons
Promulgated
On 10th January 2018**

Before

DEPUTY UPPER TRIBUNAL JUDGE JUSS

Between

**MR NABEEL SALEH
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr J Howard (Solicitor)

For the Respondent: Mr C Bates (Senior HOPO)

DECISION AND REASONS

1. This is an appeal against the determination of First-tier Tribunal Judge M Robertson, promulgated on 20th September 2017, following a hearing at Birmingham, Sheldon Court on 14th August 2017. In the determination, the judge dismissed the appeal of the Appellant, following which the Appellant subsequently applied for, and was granted, permission to appeal to the Upper Tribunal, and thus the matter comes before me.

The Appellant

2. The Appellant is a male, a citizen of Iraq, who was born on 27th February 1991. He appealed against the decision of the Respondent dated 15th February 2016, to refuse to grant him asylum and to refuse to grant him humanitarian protection under paragraph 336 of HC 395 (as amended).
3. The appeal had initially been heard by IJ Hall on 6th September 2016. The Appellant had failed to attend and the appeal was refused. The decision was subsequently set aside on 31st January 2017 and remitted back for a rehearing, and it was in these circumstances that IJ M Robertson determined the appeal.
4. At the hearing before IJ M Robertson, the Appellant was again not present. The judge observed how the Appellant's representatives had clearly received a letter of notification and there is no justifiable reason to adjourn, particularly as the Appellant had not attended a previous hearing either, and had decided not to keep his representatives informed (see paragraph 10).
5. For the reasons that the judge gave in the determination, namely, that it was entirely reasonable for the Appellant to travel to Baghdad with a laissez passer, and from there make his way from Baghdad to IKR, that the decision of the Respondent Secretary of State was entirely sustainable. The Appellant was a Kurd and in the interview had referred to having travelled there before. He was a resourceful young man. He had left his family in Turkey to travel to the UK where he knew no-one (see paragraph 23).
6. On 19th October 2017, permission to appeal was granted by the First-tier Tribunal against the decision of IJ M Robertson on the basis that the suggestion that the Appellant could safely travel up to the IKR (at paragraph 23) from Baghdad, was not sustainable.
7. A Rule 24 response was entered on 8th November 2017.
8. At the hearing before me on 8th December 2017, Mr Howard, appearing on behalf of the Appellant, was handed a copy of the Rule 24 response of 8th November 2017. This stated, at the last paragraph (at paragraph 5) that the Appellant had failed to attend when his appeal was initially heard on 6th September 2016 and had again failed to attend the rehearing of his appeal on 14th September 2017. However, "the Respondent wishes to advise the Tribunal that the Appellant made an Assisted Voluntary Return to Iraq on 4th July 2016, flying from London Heathrow to Sulaymaniah via Doha". Mr Howard, confessed not to having seen a copy of the Rule 24 response before. He accepted that in the circumstances the suggestion that the Appellant could not return back to the IKR, via Baghdad, was unsustainable, because the Appellant had already voluntarily returned on 4th July 2016.
9. In fact, the matter, in relation to the reasonableness of return under Article 15(c) of the Qualification Directive, has to be evaluated in the context of

Judge Robertson's own statement that the Appellant "is a Kurd and in interview referred to having travelled there before" (paragraph 23). This suggests that, not only had the Appellant now taken a package and returned by way of assisted return on 4th July 2016, but had also previously returned.

10. Mr Bates, appearing as Senior Home Office Presenting Officer, for his part, handed up also the notice of directions to remove an illegal entrant, dated 23rd June 2016, which sets out how the Appellant was to board flight QR008 to Doha on 4th July 2016 and then take a connecting flight QR454 to Sulaymaniah on 5th July 2016. He suggested that the Appellant had not been able to attend the previous hearings because he was not in the country.
11. In the circumstances the appeal must be treated as having been abandoned as the Appellant is no longer in the jurisdiction.
12. This appeal is dismissed.
13. No anonymity direction is made.

Signed

Date

Deputy Upper Tribunal Judge Juss

8th January 2018