



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: PA/03850/2017

THE IMMIGRATION ACTS

Heard at Newport
On 18 July 2018

Decision & Reasons Promulgated
On 28 August 2018

Before

DEPUTY UPPER TRIBUNAL JUDGE CHAPMAN

Between

S M M
(ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms L Gardner, instructed by Migrant Legal Project
For the Respondent: Mr C Howells, Home Office Presenting Officer

DECISION AND REASONS

1. The Appellant is a national of Iraq, born on 27.3.95. He arrived in the United Kingdom and claimed asylum on 8 October 2016, on the basis that he was forced to flee from his home on 7 August 2014 because ISIS attacked the area. He relocated and formed a relationship with a young woman who became pregnant and was killed by her family as a result. The Appellant then fled to his aunt's house in Kirkuk and left Erbil for Turkey on 23 December 2015. He travelled through Europe until his arrival in the UK. This application was refused in a decision dated 7 April 2017.
2. The Appellant appealed and his appeal came before First-tier Tribunal Judge Baker for hearing on 3 July 2017. In a decision and reasons promulgated on 19 July, the appeal was dismissed.
3. An application for permission to appeal to the Upper Tribunal was made, in time, on the basis that:

(i) the Judge failed to follow the country guidance case of AA(Iraq) [2015] UKUT 00544 (IAC) reaffirmed by the Court of Appeal in AA(Iraq) [2017] EWCA Civ 944, in finding that the Appellant could return to Kirkuk;

(ii) in failing to consider relevant background evidence, in particular, the expert report of Christoph Bluth, in determining the Appellant's credibility;

(iii) in failing to give any weight to the medical evidence that the Appellant has PTSD in her assessment of credibility.

4. Permission to appeal was granted by Upper Tribunal Judge Pitt in a decision dated 19 December 2017 on the first ground, with permission to argue all grounds.

Hearing

5. At the hearing before me, Mr Howells conceded that the Judge had made material errors of law and that there was merit in the grounds in the grounds of appeal. He accepted that the Judge had departed from *AA (Iraq)* on the basis of the March 2017 CPIN report, to which reference had been made at [53] of the refusal and the Judge did not consider whether she could depart from the country guidance decision. Mr Howells also accepted that there were *Robinson* obvious points arising from the decision as to the feasibility of return and the issue of whether or not the Appellant has a CSID, in light of the recent country guidance decision in AAH (Iraqi Kurds - internal relocation) Iraq CG UKUT 00212 (IAC).

6. Ms Gardner did not disagree.

Findings

7. In light of Mr Howells' helpful concession, which I accept, I find that the First-tier Tribunal Judge materially erred in law, in particular at [68] in finding that the Appellant could travel from Erbil to Kirkuk and remain living there. This finding is clearly contrary to the country guidance decision in *AA (Iraq)*.

8. I further find that the other two grounds have merit and that the Judge's findings as to the Appellant's credibility cannot stand. The parties were agreed that a hearing *de novo* would be appropriate.

Decision

9. I find material errors of law in the decision of the First-tier Tribunal. I set that decision aside and remit the appeal for a hearing *de novo* before the First-tier Tribunal.

Rebecca Chapman
Deputy Upper Tribunal Judge Chapman

17 August 2018