



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

Appeal Number: PA/09523/2017

THE IMMIGRATION ACTS

Heard at Field House

**On 24 January 2018
Prepared 24 January 2018**

**Decision & Reasons
Promulgated
On 26 April 2018**

Before

DEPUTY UPPER TRIBUNAL JUDGE DAVEY

Between

**[S A]
(~~ANONYMITY DIRECTION NOT MADE~~)**

and

Appellant

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mrs H Masih, counsel instructed by Rodman Pearce Solicitors

For the Respondent: Mr I Jarvis, Senior Presenting Officer

DECISION AND REASONS

1. The Appellant, a national of Iraq, date of birth [] 2000, appealed against the decision of the Respondent, dated 14 September 2017, to refuse an asylum/humanitarian protection claim. At the material time the Appellant was a minor and was granted leave to remain until his 17th birthday.

2. The appeal against that decision came before First-tier Tribunal Judge Robertson (the Judge) who, in a determination promulgated on 14 November 2017, dismissed the Appellant's appeal. Permission to appeal that decision was granted on 8 December 2017 by First-tier Tribunal Judge Ransley on the basis that the Judge had made arguable errors of law. Before me Mr Jarvis fairly and correctly identified matters which bear on the Judge's assessment of credibility and the issue of the reasonableness of return.
3. In respect of the Judge's decision in relation to the Appellant's credibility were as Mr Jarvis identified, significantly undermined by the findings the Judge had made in paragraph 14 of the decision in concluding, bearing in mind at the material time the Appellant was a child, that the Appellant had not given a proper explanation as to his claim to have essentially lost contact with his family: His explanation was not believed and that was certainly key to the assessment of credibility of the Appellant and the risks he faced on return. The Judge did not accept that the Appellant would return to Iraq as a lone child, as submitted, and did not accept the Appellant did not have the means to contact his family in Iraq (D19).
4. However the position has changed *vis a vis* the home area of Jalawla in Diyala province in Iraq. Mr Jarvis properly accepted that at least some consideration needed to be given as to whether the previously-contested area was still, at the time the matter was before the Judge, an area which was safe to return to, and whether the Appellant could do so with the necessary documentation. In the circumstances, Ms Masih indicated her general challenge to the decision and reliance on the grounds of appeal but did not develop those arguments in the light of the remarks made by Mr Jarvis.
5. For my part, I was satisfied that, bearing in mind the Appellant was a child at the material time he was interviewed and at the material time in his appeal, and therefore the Judge needed to address with considerable circumspection the criticisms of the Appellant's credibility. I find that the

grounds disclose material errors of law. The Original Tribunal's decision cannot stand.

DECISION.

6. The appeal is allowed to the extent the matter will be remade in the First-tier Tribunal (IAC)

DIRECTIONS:

- (1) The matter will be considered in the First-tier Tribunal.
- (2) Time estimate two hours.
- (3) Interpreter in Kurdish Sorani required.
- (4) Any further documentation and material to be provided to be subject to directions by the First-tier Tribunal.
- (5) Return to Birmingham Hearing Centre but not before First-tier Tribunal Judge Robertson.
- (6) No findings of fact to stand unless agreed between the parties.

Signed

Date 20 March 2018

Deputy Upper Tribunal Judge Davey

PS The delayed promulgation of this is due to the case file being miss-located.