



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: PA/09898/2016

**THE IMMIGRATION ACTS**

Heard at: Columbus House, Newport  
On: 13 August 2018

Decision & Reasons Promulgated  
On: 22 August 2018

Before

DEPUTY UPPER TRIBUNAL JUDGE J F W PHILLIPS

Between

MKJ  
(anonymity direction made)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

**Representation**

For the Appellant:

Mr T Mahmood, Counsel instructed by UK & Co Solicitors

For the Respondent:

Mr D Mills, Home Office Presenting Officer

**DECISION AND REASONS**

1. This is an appeal against the decision of First-tier Tribunal Judge Lebasci in which she dismissed the appeal of the Appellant, a citizen of Iraq, against the Secretary of State's decision to refuse asylum and issue removal directions.

2. The application under appeal was refused on 26 August 2016. The Appellant exercised his right of appeal to the First-tier Tribunal. This is the appeal which came before Judge Lebaschi on 24 March 2017 and was dismissed. The Appellant applied for permission to appeal to the Upper Tribunal. The application was refused by First-tier Tribunal Judge Cruthers but on renewal to the Upper Tribunal was granted by Upper Tribunal Judge Plimmer on 17 January 2018 in the following terms

Although the First-tier Tribunal decision is carefully drafted, there has been an arguable failure to take into account the evidence at page 67 of the appellant's bundle: a letter from the appellant's uncle setting out in relatively detailed terms an account corroborative of the appellant's claim.

3. By a rule 24 response dated 2 February 2018 the Respondent opposed the appeal submitting that the First-tier Tribunal Judge directed herself appropriately and that the failure to refer to the Appellant's uncle's letter did not amount to a material error of law.

### **Background**

4. The history of this appeal is detailed above. The Appellant is a citizen of Iraq born on 23 May 1989. He arrived in the United Kingdom on 1 March 2016 and claimed asylum on arrival. The basis of his claim was that he was a mechanic working in a garage in Daquq and that after working on a government car it was involved in an accident severely injuring the brother of a high ranking official. The authorities blamed those who had worked on the vehicle and having heard that his employer and his employer's son had been detained the Appellant fled firstly to Kirkuk and then left the country.
5. The Respondent did not accept that the Appellant had given a credible account and refused his application. At the appeal the Appellant was represented by counsel and gave oral evidence and submitted a supporting bundle containing 224 pages including a detailed witness statement and a handwritten letter from his uncle.
6. The Judge dismissed the appeal finding that the core elements of the Appellant's account were not credible and that he would not face persecution or a risk of serious harm upon his return.

### **Submissions**

7. At the hearing before me Mr Mahmood appeared for the Appellant and Mr Mills for the Respondent.

8. For the Appellant Mr Mahmood said that he had not drafted the grounds of appeal. The error of law asserted related solely to the Judge's failure to consider the evidence from the Appellant's uncle. The evidence of the Appellant's uncle is referred to at page 4 of the grounds. If the Judge had considered the uncle's letter at page 67 of the bundle the decision might have been different. The error of law is the Judge's failure to consider, or to adequately consider, the evidence before her.
9. For the Respondent Mr Mills said that the point made by Judge Cruthers in refusing permission was pertinent. The authority of MA (Somalia) [2010] UKSC 49 held that a reviewing authority should be very slow to conclude that the Tribunal had overlooked some factor simply because it was not explicitly referred to. The Judge confirmed at paragraph 12 that she had taken the Appellant's bundle into account. Although it may have been better if the Judge had referred to the letter the decision shows a detailed consideration of the credibility issue. She sets out her reasoning from paragraph 24 onwards in a detailed and forensic manner. It is not a tenable argument to suggest that specific referral to the uncle's letter would have made any difference,
10. Mr Mahmood responded briefly to say that the Appellant's uncle had given corroborative evidence and the Judge did not mention it. This, he said, was material to the Judge's decision.
11. I gave an extempore decision dismissing the appeal and reserved my written decision which I now give below.

### **Decision**

12. In my judgement there is no material error of law in the decision of the First-tier Tribunal. This is a detailed and clearly reasoned decision in which the Judge makes cogent, rational and sustainable credibility findings. In doing so the Judge confirms at the outset (paragraph 12.2) that she has taken into account all of the evidence contained in the Appellant's bundle. There is no requirement to specifically mention each and every item of evidence in a decision. In this case the Appellant's bundle submitted to the First-tier Tribunal runs to some 224 pages. I see no reason to doubt that the Judge took everything that was before her into account.
13. The Appellant's statement (pages 14-21 of the bundle) refers to the evidence from his uncle at paragraph 18. The Judge confirms at paragraph 13 of the decision that she has taken the Appellant's statement, adopted as his evidence in chief, into account. In her analysis of the evidence the Judge refers repeatedly to various parts of the Appellant's statement making it very clear indeed that she has read that statement and that its

contents are in the forefront of her mind in reaching her decision. The Judge refers to the Appellant's contact with his uncle.

14. In my judgment the failure to specifically mention the letter from the Appellant's uncle, a letter that does nothing more than repeat rather than add to, the Appellant's evidence, is not indictive of a lack of consideration. The Judge's adverse credibility findings are not made because of a lack of corroboration, rather they are made because of specific inconsistencies and implausibilities detailed in paragraphs 24 to 27 of the decision. It is pertinent also to note that at paragraph 23 the Judge makes positive credibility findings in respect of matters raised by the Respondent but where the Judge considers the discrepancies highlighted to be modest.

### Summary

15. The decision of the First-tier Tribunal did not involve the making of a material error of law. I dismiss the appeal.

**Signed:**

**Date: 14 August 2018**

A handwritten signature in black ink, appearing to read 'J F W Phillips', written in a cursive style.

**J F W Phillips**  
**Deputy Judge of the Upper Tribunal**