



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

Appeal Number: PA/00028/2017

**THE IMMIGRATION ACTS**

**Heard at Newport**

**On 16 November 2018**

**Decision & Reasons  
Promulgated**

**On 19 February 2019**

**Before**

**MR C M G OCKELTON, VICE PRESIDENT  
DEPUTY UPPER TRIBUNAL JUDGE J F W PHILLIPS**

**Between**

**HM  
(ANONYMITY DIRECTION MADE)**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: Mr A Joseph, Counsel instructed by Turpin & Miller

For the Respondent: Mr C Howells, Home Office Presenting Officer

**DECISION AND REASONS**

1. This is an appeal against the decision of First-tier Tribunal Loughridge in which he 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. We make an anonymity direction under Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 in order to protect the anonymity of the Appellant who claims asylum. This direction prohibits the disclosure directly or indirectly (including by the parties) of the identity of the Appellant. Any disclosure and breach of this direction may amount to a contempt of court. This direction shall remain in force unless revoked or varied by a Tribunal or Court.
3. The application under appeal was refused on 16 December 2016. The Appellant exercised her right of appeal to the First-tier Tribunal. The appeal came before Judge Loughridge on 26 May 2017 and was dismissed. The Appellant applied for permission to appeal to the Upper Tribunal. The application was refused by First-tier Tribunal Judge Mark Davies on 18 September 2017 but on renewal to the Upper Tribunal was granted by Upper Tribunal Judge Coker in the following terms

The grounds pleaded are arguable in particular that the judge gave inadequate/no reasons for finding that the applicant had been subjected to 'low-level' violence or why 'low-level' violence was acceptable or could be tolerated; why the applicant should attempt to obtain documents from her place of origin when such may place her at increased risk; why she should, in a brief conversation disclose her fears; how a young single woman with a baby could return to Iraqi Kurdistan.

## **Background**

4. The history of this appeal is detailed above. The Appellant is a citizen of Iraq born on 1 January 1991. She arrived in the United Kingdom on 19 June 2016 and claimed asylum on arrival. The basis of her claim was that she had been ill treated by her uncle with whom she lived in Iraq due to her refusal to marry her cousin and that there was no sufficiency of protection to prevent her uncle continuing this ill treatment if she had to return. The ill treatment already suffered consisted of violent attacks upon her and now included threats to kill. The Appellant feared that the risk was heightened because since her arrival in the United Kingdom she had married someone else and, at the time of the hearing, she was pregnant.
5. The Secretary of State refused the claim not accepting that the Appellant had given a true account of events in Iraq nor that her claim displayed a Refugee Convention reason. In dismissing her appeal, the Judge found (paragraph 44) that whereas the Appellant's account of disagreement and difficulties with her uncle over her refusal to marry his son was plausible her claim that he had been significantly violent to her or had threatened to kill her was not credible. The Judge also found that there was no Refugee Convention reason and no reason why on a return the Appellant would face a threat to her protected rights under Article 2 and 3 of the Human Rights Convention. So far as the claim to Humanitarian Protection was concerned the Judge followed the Country Guidance then applicable and found that the Appellant had not established her claim.

## **Submissions**

6. For the Appellant Mr Joseph said that the grounds focus on credibility, but the main issue is the failure to consider risk on return. There was no consideration of relocation. The Appellant did not have a CSID at any point and the Tribunal did not consider re-documentation. Although she had a passport this was held by her uncle. Her brother helped her to leave using a false French passport. She could not approach her uncle for assistance the Tribunal having accepted that there were difficulties with her uncle and that she had been subjected low-level violence. There seemed to be no consideration of where the Appellant would be returned. According to the country guidance cases it would only have been to Baghdad and there was no consideration of onward travel or relocation. By the time of her return she would have a child. Answering questions from us Mr Joseph accepted that the question of a CSID was not raised before the First-tier Tribunal Judge and the Appellant did not say that she did not have a CSID. Mr Joseph accepted that the Appellant used to have a passport, that there was no suggestion of any risk faced from the authorities and that she had a brother in Iraq who assisted her to leave. He confirmed that the Appellant's husband was subject to a deportation order and that the Appellant was now pregnant with their second child.
7. For the Respondent Mr Howells said that the Judge found at paragraph 45 of the decision that the actions of the Appellant's uncle were not sufficient to reach the threshold of persecution. So far as humanitarian protection is concerned the Appellant is able to contact her brother to assist in redocumentation should this be necessary. The Home Office understands that her husband is an Iraqi national.
8. We said that the appeal would be dismissed, and that decision of the First-tier Tribunal stood. The credibility findings made by the First-tier tribunal are sound and well-reasoned and there is no error of law. The Appellant has a brother in Iraq, her husband is Iraqi, and she would be returning with him and their children as a family. We reserved our written decision.

## **Decision**

9. The basis of the Appellant's claim is briefly set out above and is detailed in her written witness statement presented to the First-tier tribunal. The Appellant lived with her elder brother, uncle and family in Iraq after her own father died when she was very young. Her brother got married and moved away from home. The Appellant's uncle wanted her to marry his disabled son, but the Appellant refused. This caused discord within the family and the Appellant claims that her uncle was violent towards her. The First-tier tribunal Judge found that any violence that she may have suffered did not cross the threshold of severity into persecution. The

Appellant's brother made arrangements for the Appellant to leave the country and she sought asylum in the United Kingdom. Whilst in Iraq the Appellant lived in Rashad but moved with the family to Kirkuk City after Daesh took over their home area. Her brother also lived in Kirkuk City about 10 minutes away from the home the Appellant shared with her uncle.

10. The grounds of appeal assert that the First-tier tribunal materially erred in its consideration of the credibility of the Appellant's claim. Having accepted that the Appellant had been largely consistent about violence and threats and that her uncle's reaction to her refusal to marry his son was plausible it is suggested that the rejection of her account on minor adverse credibility issues was in error.
11. The grounds do not assert that the findings were perverse or irrational nor that they are not adequately reasoned. In our judgement the First-tier Tribunal has given clear and sound reasons for rejecting the parts of the Appellant's account that are not accepted. There is no suggestion in the decision that 'low-level' violence is acceptable or should be tolerated just that it does not amount to persecution and indeed does not need to be tolerated. So far as the reasons for rejecting the Appellant's account are concerned paragraphs 43 to 47 go into considerable detail. The Judge accepts that it is plausible that the Appellant's refusal to marry her cousin caused disagreement and difficulties between the Appellant and her uncle. He goes on to explain why, given this plausibility, he did not find her account of the extent of her uncle's adverse reaction credible. The Appellant's brother, who on her account was sympathetic to her plight, lived only 10 minutes away. If her uncle had been violent in the way the Appellant claimed the Appellant could have sought her brother's assistance and protection. If the Appellant had truly reported the matter to the police, she could have obtained a copy of the police report from her brother. The Judge did not accept the Appellant's claim to have lost contact with him.
12. Mr Joseph said in his submissions that the main issue was risk on return. The Appellant, he said, had never had a CSID and although she had a passport this was held by her uncle. The grounds assert that the Tribunal made no findings as to where in Iraq the Appellant is expected to return. The grounds, and Mr Joseph's submissions, also referred to a lack of findings on internal relocation.
13. In our judgement this ground is completely ill founded. The Judge found that there was no risk to the Appellant in her home area. In such circumstances the issue of internal relocation does not arise. The means of transport and the route to be taken to the Appellant's home area was not a matter raised by Mr Joseph before the First-tier Tribunal so any failure by the Judge to deal with this could not be an error of law. The findings of the First-tier Tribunal and also the Appellant's own domestic circumstances are illuminating in this respect. The Appellant had a passport, and this was last seen, according to her account, at her uncle's house. With the

credibility findings made by the Judge there appears to be no reason why enquiries could not be made, through the Appellant's brother, to locate this passport. Even if the passport could not be located the very fact that she had one shows that she is on record with the authorities. She has a male relative, a brother, who could assist in obtaining a new passport or CSID. Indeed, as she previously held a passport, it may be that the Iraqi Embassy in London would be able to issue a document. There has been no evidence put forward by the Appellant, and no argument put forward by her representatives, to suggest that she is unable to obtain the necessary documents to enable her to return to her home area of Iraq. Added to this is the fact that the Appellant is married to an Iraqi national who has no status in the United Kingdom. The couple have a child and are expecting their second child. No argument has been put forward to suggest that this family cannot return to Iraq together.

14. For all these reasons we find no error of law in the decision of the First-tier Tribunal and the appeal to the Upper Tribunal is dismissed.

**Summary of decision**

15. Appeal dismissed. The decision of the First-tier Tribunal stands.

Signed

Date: 31 January 2019



J F W Phillips  
Deputy Judge of the Upper Tribunal