



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: PA/02273/2018

THE IMMIGRATION ACTS

Heard at Glasgow
On 10th May 2019

Decision & Reasons Promulgated
On 14th May 2019

Before

DEPUTY JUDGE UPPER TRIBUNAL FARRELLY

Between

MR D M A
(ANONYMITY DIRECTION MADE)

Appellant

And

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the appellant: Mr T Haddow, Counsel, instructed by Frew and Co,
Solicitors

For the respondent: Mr Mathews, Senior Presenting Officer.

DECISION AND REASONS

Introduction

1. The appellant made a claim for protection on 11 October 2017. His wife and their 3 children are included as his dependents. He indicated they are

Kurdish Iraqi nationals from Sulaymaniyah. He said his wife and children left 1st and then he followed, meeting up in Germany in September 2017.

2. His claim was that his cousin had been murdered by a man who owed him money. The appellant's father was approached on behalf of this man and asked to mediate so that he could be released. When his father refused the family were threatened. It is claimed matters have now developed into a blood feud with a political dimension because of the parties backgrounds.
3. The respondent did not accept the claim was true.
4. The appeal was heard at Glasgow on 23 May 2018 before First-tier Tribunal Judge Clough. In a decision promulgated on 21 September 2018 the appeal was dismissed. The appellant attended and gave evidence. The appellant's wife also attended and adopted her statement, setting out events in their home country.
5. At paragraph 31 of the decision the judge sets out the findings made. The judge recites concerns about a death certificate submitted in support of the claim. The judge includes that this could not be relied upon. The judge then went on to state she did not find the claim credible. After this there is reference to his failure to claim in safe countries. Reference is also made to an expert report about the security situation in his home area and the existence of blood feuds. However, this is not seen as material as the underlying claim is not believed.
6. Significantly, the judge does not make any findings in respect of the evidence of the appellant's wife.

The Upper Tribunal

7. Permission to appeal was granted on the basis the judge failed to make such findings and take into account the evidence of the appellant's wife in support of his claim. This in turn was relevant to the credibility assessment.
8. At hearing, Mr Winters accepted there was merit in the application, particularly in relation to the assessment of the evidence from the appellant's wife.
9. I am in agreement with the concession by Mr Winters. Whilst the judge recited details of the evidence of the appellant's wife there is no reference to it under the finding section. Given the claim was said to engage a wider family this was a significant omission.
10. As the error relates to the assessment of credibility which requires consideration of all of the evidence in the round it is necessary for the matter

to be re-heard in the First-tier Tribunal. The necessary fact-finding exercise can be carried out there in a de novo hearing.

Decision.

The decision of First-tier Tribunal Judge Clough materially errs in law and is set aside. The appeal is remitted to the First-tier Tribunal for a de novo hearing.

Signed

Date: 10 May 2019

Deputy Upper Tribunal Judge Farrelly.

Directions

1. Relist for a de novo hearing in the First-tier Tribunal in Glasgow, excluding First-tier Tribunal Judge Clough.
2. It was indicated that the appellant and his wife will give evidence. There is also the possibility of 2 further witnesses attending. A hearing time of around 2 ½ hours can be anticipated.
3. The appeal bundles should be updated as necessary. The parties should also address the question of documentation for return.
4. A Kurdish Sorani interpreter will be required

Deputy Upper Tribunal Judge Farrelly.