Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: PA/03146/2018

THE IMMIGRATION ACTS

Heard at Birmingham Civil Justice Centre	**Decision & Reasons Promulgated**
On 4th July 2019	**On 18th July 2019**

Before

DEPUTY UPPER TRIBUNAL JUDGE JUSS

Between

H A H
(ANONYMITY DIRECTION MADE)
Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT
Respondent

Representation:
For the Appellant: Mr M J Azmi (Counsel)
For the Respondent: Ms H Aboni, (Senior HOPO)

DECISION AND REASONS

1. This was an appeal against a determination of First-tier Tribunal Judge Asjad, promulgated on 13th September 2018, following a hearing at Birmingham on 9th August 2018. In the determination, the judge dismissed the appeal of the Appellant, whereupon the Appellant subsequently applied for, and was granted, permission to appeal to the Upper Tribunal and thus the matter comes before me.

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The Appellant

2. The Appellant is a male, a citizen of Iraq, and was born on 5th May 1993. He arrived in the UK in 2009 as a minor aged 16. He applied for asylum and for humanitarian protection, pursuant to paragraph 339C of HC 395. By a decision dated 16th February 2018, his application was refused. He had discretionary leave to remain until 5th November 2010.

The Appellant's Claim

3. The essence of the Appellant's claim is that he is a Kurdish Iraqi from Kirkuk. He has no ID documents. He has no contact with his family. His home area of Kirkuk is subject to indiscriminate violence and internal conflict. Secondly, he has converted to Christianity. He was baptised on 16th April 2017. He attends church. He would now be subject to persecution and discrimination if returned to Iraq as a Christian convert. It is a feature of this appeal that there was a previous decision by Judge Sarsfield on 21st February 2011 which had rejected the Appellant's claim, on the basis that the Appellant was not credible, and his claim that he did not have any contact details of his family was not to be believed.

The Judge's Findings

4. The judge, under a heading "My Findings and Decision", set out the evidence in relation to the Appellant's conversion in considerable detail (see paragraphs 15 to 16). The judge then proceeded to consider the Appellant's entitlement to remain here on the basis of a section headed "Risk on Return", and here the judge referred to the fact that the Appellant "claims that Christians are routinely targeted in Iraq and the authorities in Iraq would be unwilling to protect him". The judge also included a sentence that "the Appellant stated that he cannot relocate to the IKR as he has no support of family or friends. He does not have a CSID and would not be able to obtain one" (paragraph 20). Thereafter, there was no consideration at all about this aspect of the claim, namely, the claim relating to the Appellant's inability to obtain a CSID card. The judge focused entirely on the question of the Appellant's conversion to Christianity (see paragraphs 21 to 23).

5. The appeal was dismissed.

Grounds of Application

6. The grounds of application state that the judge had accepted that the Appellant was a genuine Christian convert. However, the judge did not consider whether the Appellant could obtain a CSID card, which had been specifically addressed in the skeleton argument (at paragraphs 5 to 7 and at paragraph 13). Moreover, the judge did not consider this question with respect to the specific factors set out in **AAH [2018] CG UKUT 212**. This was important because the question specifically highlighted in the latest country guidance case is whether there are family members who will be

able and willing to attend the Civil Registry with the Appellant to enable him to get a CSID card. The country guidance case goes on to say that, "because the registration system is patrilineal it will be relevant to consider whether the relative is from the mother or father's side" (see head note (iii). This the judge had not done. Accordingly, there was an error of law.

7. On 4th October 2018 permission to appeal was granted on the basis that the judge had failed to engage with the test set out in **AAH**.

Submissions

8. At the hearing before me on 4th July 2019, Mr Azmi, appearing on behalf of the Appellant made two firm submissions. First, that the judge had simply not considered, under the section on "Risk on Return", the Appellant's claim that he could not relocate to the IKR because he had no support of family or friends. Apart from two sentences setting out what the Appellant himself alleged (at paragraph 20), there was no consideration at all of this aspect of the claim. The entire consideration was of the Appellant's conversion to Christianity, and the risk appertaining thereto, were it to be returned to Iraq.

9. Second, there was a recent decision of **SS [2019] EWHC 1402** where the High Court had made it quite clear how if what the CSID card was "a crucial document for adult life in Iraq", upon which matters such as access to food rations, healthcare or government humanitarian services, was entirely dependent (see paragraphs 24 to 30). He made it quite clear how the country guidance case of **AAH** had to be followed. This had not been done here. That in itself was an error of law.

10. For her part, Ms Aboni accepted that the judge did not actually consider the Appellant's risk upon return, on the basis of his claim that he would not be able to acquire a CSID card. This concession meant that she could not take the matter any further.

Error of Law

11. I am satisfied that the making of the decision by the judge involved the making of an error on a point of law (see Section 12(1) of TCEIA). My decision is as follows. First, it is plain that the judge after paragraph 20 of the determination does not actively engage with the Appellant's claimed risk on account of the fact that he does not have a CSID card and would not be able to get one.

12. Second, the issue is of sufficient importance to have been the subject matter of the latest country guidance case of **AAH (Iraq)**, such that it was necessary to deal with it). This is further highlighted by the recent High Court decision in **SS [2019] EWHC 1242**. Moreover, the fact, as the High Court case makes clear, that the whole issue about CSID cards has been set down for another country guidance case listed for five days in Field

House on 24th June 2019, means that the issue remained particularly important (see paragraph 10).

Notice of Decision

The decision of the First-tier Tribunal involved the making of an error on a point of law. I set aside the decision of the original judge. I remake the decision as follows. This appeal is remitted back to the First-tier Tribunal, to be determined by a judge other than Judge N Asjad, pursuant to Practice Statement 7.2(b). Given that the question for this Tribunal has also been addressed on 24th June 2019 before the Upper Tribunal in a five day hearing, this appeal should only be listed once the decision in that case has been promulgated.

An anonymity order is made.

This appeal is allowed.

Direction Regarding Anonymity – Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008

Unless and until a Tribunal or court directs otherwise, the Appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify him or any member of their family. This direction applies both to the Appellant and to the Respondent. Failure to comply with this direction could lead to contempt of court proceedings.

Signed

Date

Deputy Upper Tribunal Judge Juss
12th July 2019