



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

Appeal Number: PA/06206/2018

THE IMMIGRATION ACTS

**Heard at Birmingham
On 4th July 2019**

**Decision & Reasons Promulgated
On 18th July 2019**

Before

DEPUTY UPPER TRIBUNAL JUDGE JUSS

Between

**MR S N K
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr M Mohzam (Solicitor), Burton & Burton Solicitors
For the Respondent: Mrs H Aboni (Senior HOPO)

DETERMINATION AND REASONS

1. This is an appeal against the determination of First-tier Tribunal Judge Asjad, promulgated on 31st July 2018, following a hearing at Birmingham on 13th June 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 came before me.

The Appellant

2. The Appellant is a male, a citizen of Iraq, and was born on 20th October 1991. He appealed against the decision of the Respondent dated 1st May 2018, against refusal of his claim for asylum and for humanitarian protection, pursuant to paragraph 339C of HC 395.

The Appellant's Claim

3. The essence of the Appellant's claim is that he originates from Mosul, in Iraq, and this was accepted by the Secretary of State. The Appellant also maintained that he was of Kurdish ethnicity, and this too was accepted by the Secretary of State. The Appellant claimed that he was wanted by ISIS who wanted to recruit him. This was not accepted by the Respondent. He further claimed that he would not be able to obtain a CSID card upon return to Iraq, as his family in Iraq would not be able to vouch for him or to support him, and this too was not accepted by the Secretary of State. It was said that the area of Mosul was no longer under control of ISIS. The Appellant claimed he had left his documents in Mosul. He could return there and obtain them (see paragraph 8).

The Judge's Findings

4. The judge concluded that the Appellant lacked in credibility in terms of the entirety of his claim which "was inconsistent on core facts and when challenged about inconsistencies, was vague and dismissive in his responses" (paragraph 18). The Appellant had not given a credible account of his contact with ISIS or that they tried to recruit him or that he fled from the area (paragraph 19).
5. Second, in relation to the Appellant's ability to acquire a CSID card, the Appellant claims that he did not have any contact with his mother or sisters since leaving Iraq. The judge, however, held that she would "reject his evidence on grounds of credibility. It is in the Appellant's interest to deny familial contact and the existence of documents", and given that the judge had already found that "he has not been credible about his claim and that he did not leave Iraq because he feared ISIS", the judge's firm view was that the Appellant had left Iraq for economic betterment and his family "have themselves invested in his departure from Iraq" (paragraph 20).
6. After giving due consideration to the applicable country guidance cases, the judge dismissed the appeal.

Grounds of Application

7. The grounds of application state that the fact that the Appellant came from Mosul had been accepted by the Secretary of State and by the judge. Mosul had been under control of ISIS. The fact that ISIS had now been dispelled did not mean that Mosul was a "uncontested" area. It was still very much contested. The judge had taken the view that the Appellant could contact his mother and sister in Mosul. However, the judge provided

no reasons for this. There were no reasons given as to why it was believed that the Appellant was in contact with his family. Furthermore, the judge did not follow **AA (Iraq)** that the CSID card had to be properly enquired into. The determination was flawed on the basis of what had been set out by the judge at paragraphs 21 to 22.

8. On 28 August 2018, permission to appeal was granted on the basis that the judge had failed to properly follow the guidance in **AA (Iraq) [2017]** and **AAH (Iraq) [2018] UKUT 212**.

Submissions

9. At the hearing before me on 4th July 2019, Mr Mohzam relied upon the grounds of application. He has submitted that Mosul was still a “contested” area and the fact that ISIS had been dispelled did not suggestion otherwise. The refusal letter (at paragraphs 102 to 104) did not provide any objective evidence to suggest that the current position was not still precarious in the manner maintained by the Appellant.
10. Second, the Appellant’s case was that he was not in contact with his family or with his mother. The judge provided no reasons to show why it was believed that this was not the case. Simply to say that it was in the Appellant’s interest “to deny familial contact and the existence of documents” (paragraph 20) was not enough.
11. Third, it had to be borne in mind that since ISIS made Mosul its stronghold, some 900,000 people had left the city and had been displaced, and in these circumstances, it could not simply be assumed that the Appellant’s mother and family still remained there. Finally, with regard to the CSID card, the country guidance cases make it clear that the Appellant needed a male relative to assist him in procuring one upon return.
12. For her part, Mrs Aboni submitted that the judge had directed herself appropriately. And good reasons had been given throughout. The fact was that the Appellant had been found not to be credible. That had coloured the rest of the evidence that the Appellant had given. There was no reason why the judge could not conclude that the Appellant’s account that he was not in contact with his family was not equally to be disbelieved, if the core account that he had been a demonstrator and had been subject to detention, was also disbelieved. The judge was clear that the family had invested monies in making sure that the Appellant left Iraq for economic betterment overseas. That was a finding that the judge had made and it was in the light of this that the judge had come to other conclusions of fact.

No Error of Law

13. I am satisfied that the making of the decision by the judge did not involve the making of an error on a point of law (see Section 12(1) of TCEA 2007) such that I should set aside the decision. My reasons are as follows.

14. First, this is a case where the judge has fully recognised, that despite the fact that ISIS has now been ejected from Mosul, that this is “a contested area and that guidance remains unchanged by the Upper Tribunal in **AAH**” (paragraph 21, on page 7).
15. Second, the judge had given additional reasons for coming to the conclusion as to why the Appellant would not be able to procure a CSID card. She makes it clear that in **AA (Iraq)**, “it was noted that offices had been set up in Baghdad to enable CSIDs to be obtained by those living in Mosul”. The fact that this has been done, is indicative of the Iraqi government’s prioritisation of the claims of those who originated from Mosul, that city having been since retaken by the Iraqi government, when they returned back to their country.
16. Third, the judge was entitled to conclude, having found that the Appellant had not been truthful about his being involved in the demonstration, that led to his subsequent detention, and his fleeing in contravention of the terms of the release, from Iraq, that he was also not telling the truth about not being in touch with his family members in Mosul. If they have indeed, left Mosul, there is no reason why they would not still have been in contact with the Appellant.
17. Finally, indeed, the judge goes further still, and observes that “even if he cannot return to Mosul as an Iraqi Kurd, he would be able to relocate to the IKR once the documents were obtained”, (at paragraph 22) having concluded that offices have been set up in Baghdad to enable CSIDs to be obtained for those who have been living in Mosul. The judge was entitled to conclude that the Appellant being required to do so would not be subject to unduly harsh conditions because he spoke Kurdish Sorani, had experience of working in Iraq, and would have the assistance of his family members.

Notice of Decision

18. The decision of the First-tier Tribunal did not involve the making of an error on a point of law. The decision shall stand.
19. An anonymity order is made.
20. This appeal is dismissed.

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 12th July 2019

Deputy Upper Tribunal Judge Juss