



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

Appeal Number: PA/06264/2018

THE IMMIGRATION ACTS

**Heard at Manchester Civil Justice
Centre
On 25th July 2019**

**Decision & Reasons Promulgated
On 02nd August 2019**

Before

DEPUTY UPPER TRIBUNAL JUDGE M A HALL

Between

**H M A
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr F Aziz, acting as agent for First Law

For the Respondent: Mr A McVeety, Senior Home Office Presenting Officer

DECISION AND REASONS

Introduction and Background

- 1.** The Appellant appeals against a decision of Judge Drake (the judge) of the First-tier Tribunal (the FTT) promulgated on 27th February 2019.
- 2.** The Appellant is a male Iraqi citizen born 2nd June 1994. He is of Kurdish ethnicity.

3. He applied for international protection fearing return to his home area because of debts that he had accumulated. He said that he had debts exceeding \$110,000 and that creditors wanted repayment.
4. The Appellant was born in Gulan, in the province of Raniyah, in Sulaymaniyah governorate in the Iraqi Kurdish region.
5. He is single, and in Iraq lived with his father, three sisters and five brothers.
6. His application for international protection was refused on 1st May 2018 and he appealed to the FTT.
7. The judge found the Appellant to be an incredible witness. The judge described his account as vague and unsubstantiated. The judge did not accept that the Appellant had satisfactorily addressed the reasons given for refusal given by the Respondent.
8. The Respondent's case was that the Appellant's nationality is accepted, but it was not accepted that he was in debt as claimed nor that he had received any threats. It was not accepted that he had a genuine subjective fear of return to Iraq.
9. The judge found at paragraph 21.7;

"The statements produced by the Appellant attest to him facing claims for legitimate debts, but not that he faced threats of anything other than legitimate action and certainly nothing amounting to provable threats infringing Convention or other similar rights protected by HP."
10. The appeal was dismissed on all grounds.

The Application for Permission to Appeal

11. In summary the Appellant contended that he feared torture and inhuman treatment from his debtors in the IKR. He feared he would be physically tortured or killed if he did not repay his debts. He contended the judge failed to consider this point.
12. The Appellant contended that the judge relied on a suggestion made by the Home Office that he could relocate to Baghdad. This was not possible as he can only speak Kurdish Sorani and cannot speak Arabic. His individual characteristics would not allow him to live in Baghdad.
13. The Appellant then quoted Annexes A - F from AA v Secretary of State [2017] EWCA Civ 944.
14. The Appellant then contended that he did not have family members or friends in Baghdad. He is from a minority community and had never previously been to Baghdad and would not be able to find lucrative employment. He would be unable to afford adequate accommodation, and would face a real risk of destitution.

15. It was submitted that the judge had failed to consider the above issues and therefore erred in law.

The Grant of Permission to Appeal

16. Permission to appeal was initially refused by Judge Boyes who found no arguable error of law disclosed in the FTT decision.
17. The Appellant renewed his application, and permission to appeal was subsequently granted by Upper Tribunal Judge Steven Smith in the following terms;

“1. The judge arguably erred materially when finding that the Appellant could relocate to Baghdad by failing to consider or apply the country guidance concerning the availability of internal relocation. The judge touched on the topic in high level terms at [24] by highlighting the ‘resilience and intelligence’ of the Appellant which has been able to ‘get him where he is now’. However, the judge did not mention or address any of the criteria contained in the country guidance concerning the feasibility of return or the potential undue harshness of internal relocation highlighted in AA (Iraq) v Secretary of State for the Home Department [2017] EWCA Civ 944. Arguably, the failure to consider these points infected the judge’s findings concerning the feasibility of returning this Kurdish Appellant to Baghdad.

2. All grounds may be argued but the above point has the greatest merit.”

18. Following the grant of permission to appeal directions were issued that there should be a hearing before the Upper Tribunal to ascertain whether the FTT had erred in law such that the decision should be set aside.

My Analysis and Conclusions

19. At the oral hearing Mr Aziz relied upon the grounds contained within the application for permission to appeal. The main point was that the judge had failed to apply the relevant country guidance when considering internal relocation to Baghdad.
20. Mr McVeety submitted that there was no challenge to the credibility findings made by the judge, and that the judge had found the Appellant would not be at risk in the IKR. The Appellant had not challenged a finding by the judge that any necessary documentation could be obtained, such as a CSID. The judge had not considered the case law in relation to relocation to Baghdad as he had not made a specific finding that the Appellant should return to Baghdad.
21. The judge did not apply the country guidance with reference to internal relocation. I do not find this to be a material error of law.
22. This is because the primary finding made by the judge was that the Appellant would not be at risk at his home area in the IKR. The judge did

not find the Appellant to be a completely credible witness giving examples at paragraph 21 of factors which damaged his credibility.

- 23.** The judge's conclusion is that the Appellant had failed to discharge the burden of proof. He had failed to provide satisfactory evidence of threats. The judge did not accept that his family would not be able to assist him.
- 24.** The judge did not in fact make a finding that the Appellant had a reasonable internal relocation option to Baghdad. This is mentioned in the grounds, but I cannot find any reference to the judge specifically referring to the Appellant relocating to Baghdad. The judge at paragraph 24 stated that the Appellant could return and/or relocate. The judge found the Appellant's own evidence indicated that he is "purely and only an economic migrant."
- 25.** The judge found in paragraph 29 that it would be "reasonable and proportionate to expect the Appellant to return to his family area in Iraq or to some other area when he can speak either Sorani or Arabic and be safe there."
- 26.** I do not find that there is any realistic challenge to the findings made by the judge in relation to credibility and risk on return in the Appellant's home area. All that is said in the grounds upon which permission to appeal was granted, is that the judge failed to consider that the Appellant would face torture and inhuman treatment from his debtors in the IKR. The judge did not fail to consider that point. The judge considered it and rejected it and gave reasons for so doing.
- 27.** The judge did not accept that the Appellant's family would be unable to help him, and did not accept that they would be unable to provide copy documents. In fact the Appellant's family did send documents to the Appellant from Iraq. These documents are in the Tribunal file and were sent by one of the Appellant's brothers.
- 28.** The Appellant's own account in his screening interview when answering question 6.3 when asked whether he intended to have additional documents sent from Iraq, was that if anything was needed "I can bring from Iraq."
- 29.** In his substantive asylum interview he was asked at question 60 whether he had a CSID card and replied that he did and Iraqi citizenship. He said that these documents were with his family at home in Iraq.
- 30.** He was then asked at question 64 whether his family were able to send his passport and ID documents from Iraq and he said yes although he would need some time as it is not easy from Iraq, and if the interviewer wanted "they can send image from me I can also do it the easy way."
- 31.** It is apparent that the Appellant remained in contact with his family in Iraq and that they sent him numerous documents. Those are on the Tribunal

file together with translations. In the main they relate to his claim that he owed money.

32. I conclude that the judge has not materially erred in law by failing to consider country guidance in relation to internal relocation to Baghdad. The judge's findings are that the Appellant is not at risk in his home area within the IKR, and that his family could provide him with his CSID and passport, as that is what the Appellant confirmed when he was interviewed.

Notice of Decision

The decision of the FTT does not disclose a material error of law. I do not set aside the decision. The 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 his 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. I make an anonymity order because the Appellant has made a claim for international protection.

Signed

Date

Deputy Upper Tribunal Judge M A Hall

25th July 2019

TO THE RESPONDENT FEE AWARD

I have dismissed the appeal and therefore there can be no fee award.

Signed

Date

Deputy Upper Tribunal Judge M A Hall

25th July 2019