



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

Appeal Number: PA/08299/2018

THE IMMIGRATION ACTS

**Heard at Birmingham Justice Centre
On 29 April 2019**

**Decision & Reasons
Promulgated
On 3 May 2019**

Before

DEPUTY UPPER TRIBUNAL JUDGE McCARTHY

Between

**BARHAM ABDUL KARIM
(NO ANONYMITY ORDER)**

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr J Howard, Fountain Solicitors

For the Respondent: Ms H Aboni, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant appeals (with permission of FtT Judge Doyle) against the decision and reasons statement of FtT Judge Ford that was issued on 10 August 2018. Judge Ford decided the appellant was not a refugee from Iraq or otherwise in need of international protection and that his associated human rights claim did not succeed. Judge Ford's reason for

her decision was that she found the appellant had not given a credible account and therefore his protection claim was not made out.

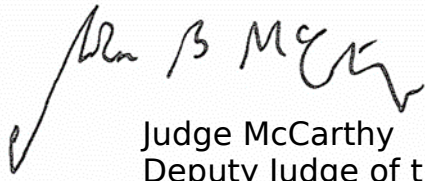
2. At the start of the hearing, Mr Howard and Ms Aboni agreed that the grounds challenged the credibility findings made by Judge Ford.
3. Mr Howard focused his arguments on whether Judge Ford gave sufficient reasons for finding the appellant's account was not credible. His argument centred on whether Judge Ford had taken into consideration her positive finding at [31] that the appellant had been able to identify a police station in his home area when deciding the appellant had failed to prove to the lower standard of proof that he was from Kirkuk. Mr Howard argued this failure to deal with this positive factual finding undermined Judge Ford's conclusion at [37] that the appellant had not established he was from Kirkuk.
4. I did not need to hear from Ms Aboni because I was not satisfied there is any merit in Mr Howard's arguments. Judge Ford indicated at [31] that the ability of the appellant to identify a local police station was not sufficient to establish he was from that area. At [33] she gave six clear reasons for finding the appellant's account to lack credibility. Those reasons draw on the evidence and highlight inconsistencies in the account as well as the appellant's lack of effort in seeking to substantiate his claims and his failure to claim asylum in a safe country en route to the UK.
5. It is obvious Judge Ford had regard to the provisions of paragraph 339L of the immigration rules, which transpose article 4(5) of the Qualification Directive (2004/83/EC). That is the correct legal approach to assessing credibility in a protection claim. All her findings were open to her on the evidence and there is no allegation that any are legally perverse. I am satisfied Judge Ford took into account all the evidence, including her positive finding.
6. Because the appellant failed to discharge the low standard of proof, it was open to Judge Ford to conclude the appellant had not given a truthful account about being from Kirkuk or about not having family support in Iraq. I am satisfied her conclusions at [37] are sound regarding returnability.
7. I am satisfied the arguments presented are mere disagreement with legitimate judicial findings and disclose no legal error. As a result, I uphold Judge Ford's decision.
8. I add that the grounds relating to whether Judge Ford adequately dealt with article 3 ECHR fall away because her findings that the appellant's account was not credible is upheld. As a result, the appellant has failed to show he faces a real risk of serious harm contrary to article 3 if he returns to Iraq.

Decision

There is no legal error in the decision and reasons of Judge Ford and I uphold her decision.

The appellant's appeal to the Upper Tribunal is dismissed.

Signed

A handwritten signature in black ink, appearing to read 'Ben B McCarthy', is written over a light grey grid background.

Date

1 May 2019

Judge McCarthy
Deputy Judge of the Upper Tribunal