



Upper Tribunal

(Immigration and Asylum Chamber)

Appeal Number: PA/08510/2018

THE IMMIGRATION ACT

**Heard at Civil Justice Centre
Manchester**

Decision & Reasons Promulgated

On 13th May 2019

On 03rd June 2019

Before

DEPUTY UPPER TRIBUNAL JUDGE MCCLURE

Between

Mr Salam Aziz Hassan

(NO ANONYMITY DIRECTION MADE)

Appellant

And

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Wood of IAS Liverpool

For the Respondent: Mr Bates, Senior Home Officer Presenting Officer

DECISION AND REASONS

1. This is an appeal by the Appellant against the decision of First-tier Tribunal Judge A Parker promulgated on the 24th August 2018 whereby the judge dismissed the appellant's appeal against the decision of the respondent to refuse the appellant's claims based on asylum, humanitarian protection, Articles 2 and 3 of the ECHR and Article 8 of the ECHR.
2. I have considered whether or not it is appropriate to make an anonymity direction. Having considered all the circumstances I do not consider it necessary to do so.
3. Leave to appeal to the Upper Tribunal was granted by Upper Tribunal Judge Canavan on 17th December 2018. Thus the case appeared before me to determine whether or not there was a material error of law in the decision.

Factual summary

4. The appellant, a national of Iraq, had come to the United Kingdom in or about September 2006. He claimed asylum on the basis of a fear from terrorist groups. As part of his claim the appellant alleged that his father had been killed by the terrorists and that he had been working for the Americans and was therefore a target. At several points, e.g. within his screening interview, within his substantive interview, within his statement and evidence, the appellant had maintained that his father had been killed.
5. The appellant's application had been refused. There had been an appeal against the decision by the appellant but that appeal had been dismissed in a decision issued in January 2007.
6. It does not appear that the appellant left the United Kingdom.
7. In 2018 the appellant made a fresh claim to protection based upon his claim to have converted to Christianity. That application was refused on 20 June 2018 and the appellant appealed against that refusal. The appeal against the refusal was heard by Judge Parker on 15 August 2018 and by decision dated 24 August 2018 the application was refused.
8. As part of the decision by Judge Parker the following was noted at paragraph 11: –

Mr Iqbal indicated he was not relying on the appellant's role in the military which was discredited in the previous determination by Immigration Judge Pooler. He is not relying on problems of returnability due to documentation and is solely relying on the appellant's conversion to Christianity.
9. In order to support his claim to have converted from the Muslim faith to Christianity the appellant called Rev Peter Wynne. During the course of giving evidence Rev Wynne indicated that the appellant's father was an Imam, that the father was extremely upset that the appellant had converted and by reason

thereof the appellant was at risk if returned to Iraq. According to the decision it was pointed out to Rev Wynne in the hearing that the appellant had stated that his father had been killed. Rev Wynne's response to that was not recorded in the decision.

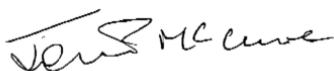
10. Before me issue was taken as to whether or not there was a record of the response of Rev Wynne in the Record of Proceedings of the judge. The representative for the respondent was seeking to refer to notes that had been completed by the Presenting Officer subsequent to the hearing. Mr Wood on behalf of the appellant indicated that he was at a disadvantage as he did not have the notes of evidence from Mr Iqbal, who had been the representative at the First-tier hearing.
11. I checked the notes of Judge Parker. It appears that it was put to the Rev Wynne that the appellant had stated that his father had been killed and Rev Wynne had replied that that was not what he had been told.
12. The issue being taken with regard to the matter was that this was a material issue which had arisen during the hearing and the appellant had not had the opportunity of dealing with it. There was no record of Mr Iqbal, the legal representative present at the First-tier hearing, making any submissions on the matter or seeking to apply to have the appellant recall to deal with it. There is no record of Mr Iqbal seeking to re-examine Rev Wynne to check what exactly Rev Wynne meant and the context.
13. It was being submitted that the appellant had not been given the opportunity of dealing with the issue. It was being submitted that the appellant had always maintained that his father was dead and the appellant should have been afforded an opportunity of answering the evidence given by a witness that he called.
14. Mr Iqbal, the representative at the First-tier hearing clearly had the evidence before him and had the opportunity of asking questions either of Rev Wynne or seeking to apply to have the appellant recalled to deal with the issue. It was clearly evidence that was before the judge and upon which the judge was entitled to make findings of fact. The judge has made findings of fact on the evidence that was before him and was entitled in the circumstances to conclude that the appellant had not been telling the truth.
15. There were other factors which led the judge to conclude that the appellant had not been telling the truth. Again the judge has properly analysed the evidence of the appellant and given valid reasons for finding the appellant was not a witness of truth and that therefore the appellant's claim to have converted to Christianity was not made out.
16. Other issues were taken in the grounds of appeal. Whilst the appellant had claimed that he had converted some time ago, he had delayed making a claim based upon his conversion until late 2017. The appellant had had his previous

appeal in 2007. The appellant had stated that he was interested in Christianity in 2013 and had converted in May 2017. It suggested that the judge in taking against the appellant that he had delayed in making a claim to asylum for a significant period of time delayed otherwise in pursuing his claim for asylum since leaving Iraq was not applying Section 8 of the Asylum and Immigration Act 2004 correctly.

17. The judge has dealt with a number of issues in coming to the conclusion that the appellant was not a credible witness and has not converted to Christianity. The judge has properly considered the previous determination and examined carefully the evidence presented on behalf of the appellant in the present appeal. The judge has fully justified the findings of fact made.
18. Mr Wood did during the hearing point out that the judge was wrong in paragraph 45 to suggest that Kirkuk was in the KRG controlled area. He submitted that Kirkuk was in the area controlled by the Iraqi government. However he accepted having regard to the matters set out in paragraph 11 of the decision and in the decision otherwise dealing with the appellant having family in Iraq, including family who appear to have found his CSID card, such made little difference to the conclusions reached by the judge.
19. With regard to whether the appellant could obtain a CSID card, whether he had family members who could assist him or whether otherwise the appellant could return to Iraq. As pointed out within the decision itself that was a matter that had been conceded by Mr Iqbal. At the outset Mr Iqbal had accepted that the sole basis for the claim by the appellant was his claim to have converted to Christianity. The issues with regard to the returnability of the appellant and other factors arising from the existing country guidance case law were not being pursued by the appellant. It was accepted that the appellant if he were not a Christian convert could be returned to Iraq.
20. In those circumstances the judge has concentrated upon the issue that was being presented as the sole basis for the appellant claiming protection. The judge has given valid reasons for finding that the appellant was not entitled to protection.
21. There is therefore no error of law in the original decision

Notice of Decision

22. I dismiss the appeal on all grounds.
23. I make no anonymity direction.



Signed

Deputy Upper Tribunal Judge McClure

Date 13 May 2019