



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: PA/08643/2018

**THE IMMIGRATION ACTS**

Heard at North Shields  
On 21 February 2019

Decision & Reasons Promulgated:  
On 25 February 2019

Before

**UPPER TRIBUNAL JUDGE GLEESON**

Between

**S A M**

[ANONYMITY ORDER MADE]

Appellant

and

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

Representation:

For the appellant: Ms Marian Cleghorn, Counsel instructed by  
Halliday Reeves Law Firm

For the respondent: Ms Rhoda Petterson, a Senior Home Office Presenting Officer

**DECISION AND REASONS**

**Anonymity order**

*The First-tier Tribunal made an order pursuant to Rule 13 of the Tribunal Procedure (First-tier Tribunal) (Immigration and Asylum Chamber) Rules 2014. I continue that order pursuant to Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008: unless the Upper Tribunal or a Court directs otherwise, no report of these proceedings or any form of publication thereof shall identify the*

*original appellant, whether directly or indirectly. This order applies to, amongst others, all parties. Any failure to comply with this order could give rise to contempt of court proceedings.*

## **Decision and reasons**

1. The appellant appeals with permission against the decision of the First-tier Tribunal to refuse him international protection on asylum or humanitarian protection grounds, or leave to remain in the United Kingdom on human rights grounds. The appellant is a citizen of Iraq and is Kurdish.

## **Background**

2. The appellant arrived in the United Kingdom clandestinely, on his account, on 27 December 2017 and claimed asylum the next day when he was encountered by Warwickshire Police. The appellant's asylum claim was based on his assertion that he is gay and that this would put him at risk on return.
3. The appellant claimed to have travelled through Turkey and various unknown countries on the way to the United Kingdom from Iraq, his country of origin. The claimant had no CSID when interviewed but the respondent considered that as he still had family and a friend in Iraq, he would be able to obtain one either before returning to Iraq or in Baghdad very soon after his return.
4. The respondent refused the appellant's protection and human rights claims and the appellant appealed to the First-tier Tribunal.

## **First-tier Tribunal decision**

5. The First-tier Judge found the asylum claim to be fabricated and that the appellant's evidence was totally lacking in credibility. He noted that Sulaymaniyah, where the appellant came from, was in the IKR and that the appellant could obtain a CSID by contacting family or friends there, or with their help, very soon after his return to Baghdad. The First-tier Judge found that there was no Article 15(c) risk to the appellant in his home area.
6. The Article 3 ECHR claim fell with the asylum and humanitarian protection claims. The appellant had never been lawfully in the United Kingdom, had no family life here and applying section 117B(4)(a), little weight could be given to any private life which he had developed in the short time he had been living in the United Kingdom.
7. The First-tier Tribunal dismissed the appeal and the appellant appealed to the Upper Tribunal.

## **Permission to appeal**

8. The appellant's appeal was self-drafted and is no more than a joinder of issue on the First-tier Tribunal's findings of fact and credibility:

“I’m seeking permission to appeal. The Judge finds my account to lack credibility. He bases his findings on the perception of the likelihood of my account being true, but not by balancing my account against the objective evidence.”

9. In the light of those very brief grounds, the grant of permission is generous. After extending time for appealing, the Judge granted leave on the following limited basis, which (in effect) he considered to be arguably *Robinson* obvious:

“The Judge did not make express reference to the further consideration reported some several weeks before the hearing in *AAH* (Iraqi Kurds – internal relocation) Iraq CG [2018] UKUT 212 by the Upper Tribunal of the Country Guidance given by the Court of Appeal in *AA (Iraq) v Secretary of State for the Home Department* [2018] EWCA Civ 944. Although the Judge considered return to both the Kurdish Regional Governorate and to Baghdad, he did not expressly direct his attention to the guidance in *AAH* on the approach to be taken to the assessment of the likelihood a returnee would be able to procure a Civil Status Identity Document (CSID). This is an arguable error of law and permission to appeal is granted on this ground alone.”

### **Rule 24 Reply**

10. The respondent filed no Rule 24 Reply.
11. That is the basis on which this appeal came before the Upper Tribunal.

### **Upper Tribunal hearing**

12. At the hearing, Ms Cleghorn recognised that the appellant could not succeed on the basis of the CSID point in the grant of permission. Although the First-tier Tribunal had not referred in its decision to *AAH*, the Tribunal’s decision was in line with the country guidance and, unless he deliberately obstructed removal by refusing to apply for a CSID, he would be able to obtain one either before travel or in Baghdad.
13. The appellant comes from the IKR and he cannot rely on Article 15(c) risk for humanitarian protection if his asylum claim fails as Sulaymaniyah is not a contested area.
14. The grant of permission was expressly limited to the CSID point, on which Ms Cleghorn accepted that the appellant could not succeed.
15. Ms Cleghorn contended that there might have been an arguable point arising out of *BA* (Returns to Baghdad) Iraq CG [2017] UKUT 18 (IAC), promulgated by the Upper Tribunal on 23 January 2017. I observed that the appeal had not been argued on that basis before the First-tier Tribunal, when the appellant was legally represented by a different Counsel. Absent any reliance either before the First-tier Tribunal or in the grounds of appeal on *BA (Iraq)*, and with no draft amended grounds or application for permission to appeal, I was not prepared to admit argument on that basis.
16. This appeal cannot succeed and I dismiss it.

## DECISION

17. For the foregoing reasons, my decision is as follows:

The making of the previous decision involved the making of no error on a point of law

I do not set aside the decision but order that it shall stand.

Date: 21 February 2019

Signed *Judith AJC Gleeson*  
Upper Tribunal Judge Gleeson