Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: PA/08771/2018

THE IMMIGRATION ACTS

Heard at Newport	**Decision & Reasons Promulgated**
On 29 January 2019	**On 06 March 2019**

Before

DR H H STOREY
JUDGE OF THE UPPER TRIBUNAL

Between

MR ARI TAHIR ABDULRAHMAN
(ANONYMITY DIRECTION NOT MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:
For the Appellant: Mr S Bass, Duncan Lewis & Co Solicitors (Harrow Office)
For the Respondent: Mr D Mills, Home Office Presenting Officer

DECISION AND REASONS

1. The appellant, a national of Iraq, has permission to challenge the decision of Judge Lloyd of the First-tier Tribunal (FtT) sent on 10 October 2018 dismissing his appeal against the refusal by the respondent dated 24 May 2018 to refuse to grant protection.

2. The appellant's two main grounds allege that the judge erred in law in:

   (1) making a perverse finding on credibility by employing an unreasonably high threshold considering that the appellant was unrepresented; and

(2) failing to provide reasons for his findings regarding the appellant's claim to fear honour-based retribution from his wife's family.

3. I express my gratitude to both representatives for their submissions.

4. Ground (1) falls well short of establishing a perversity challenge. At paragraph 76 the judge reminded himself of the lower standard of proof applicable in asylum cases and there is nothing to indicate that he applied a higher standard. At paragraph 14 the judge considered whether it was fair to proceed with the hearing, notwithstanding that the appellant was unrepresented, stating:

> "14. His appeal has already been adjourned on one previous occasion, and I do not consider it is fair or appropriate to either side that it is adjourned again. With the Appellant's approval, therefore, I have proceeded to hear this appeal without a professional representative appearing on behalf of the Appellant. I am satisfied that I have heard his appeal in those circumstances in a fair and balanced manner and he has been put at no prejudice by the absence of a legal adviser".

5. The first ground takes particular issue with the judge's findings at paragraph 69:

> "69. The account on which he squarely relies is one which fundamentally lacks credibility. I believe that such a conclusion has been emphasised not least by his production of a translated arrest warrant which appears to be somewhat at odds with the timescales which he gave in his asylum interview. Also, I accept the line of questioning pursued by the Presenting Officer to the effect that it is illogical and irrational that his wife's family should be pursuing him as a potential honour retribution when it is his wife who is the deserting party and has formed a relationship with another man".

6. The judge had earlier noted that the arrest warrant bore the date 20 August 2015 and that the appellant had said at Q101 of the asylum interview that his problems started from 20 June 2015 because the arrest warrant was made on that date (paragraph 41). The judge noted that this inconsistency was put to the appellant and that the latter sought to explain it in terms of interpreter error (paragraphs 41 and 42). The judge further noted in paragraph 42 that the Presenting Officer put to him that he had never made any previous complaint about the quality of interpretation even though he had solicitors acting for him at that time. The claim regarding the arrest warrant was clearly central to the appellant's case since it was said by him to be the reason why his problems began and why he had fled Iraq. A further consideration in the judge's mind was that the arrest warrant had not been produced by the appellant until the appeal hearing. In such circumstances, for the judge to treat this inconsistency as highly material was entirely reasonable. Mr Bass submitted that the fact that the appellant got right the day and the year of the arrest warrant should have been seen to excuse his mistake

about the month, but the appellant in his asylum interview could not have been clearer that his troubles started with the arrest warrant in June 2015.

7. Mr Bass, by reference to the written grounds and skeleton argument, sought to argue that the judge's approach wrongly failed to note that the appellant had met all the conditions set out in paragraph 339L of the Immigration Rules. Leaving aside that this paragraph (which mirrors Article 4(5) of the Qualification Directive) is a rule limited to the issue of corroboration (it is not a set of criteria for establishing the credibility of an account), the judge cannot be said to have offended it since on the judge's findings at least two of the (cumulative) conditions were not met: paragraphs 339L(iii) and (v).

8. Mr Bass's skeleton argument said that the "scant evidence" presented at the hearing was not the appellant's fault as his representatives did not adequately prepare his bundle and withdrew a mere seven days before the hearing; but the appellant had several weeks before then in which to ensure he had produced all relevant evidence and, in any event, the judge permitted him to adduce an arrest warrant on the morning of the hearing.

9. Turning to ground (2), I cannot agree that the judge failed to give adequate reasons for concluding that the appellant's account of why he was at risk lacked plausibility. It is clear first of all that the judge properly understood the appellant's claim as being that his wife's family blamed him for his wife having left him for another man. The judge noted at paragraph 65 that their hostility arose because they considered that he had not acted with sufficient resolve in trying to trace her (paragraph 65). It is also clear that the appellant was challenged by the Presenting Officer about this aspect of his claim. The judge noted at paragraph 38:

> "38. The Presenting Officer challenged the Appellant's story as not credible. His account that he was in mortal danger from his wife's family did not sit easily or consistently with the narrative that she had deserted him for another man and that, moreover, the Appellant had been his wife's chosen suitor in preference to the new lover some years ago".

It was open to the judge to find this claim not credible for the reasons given. At paragraph 65 the judge noted that on the appellant's own account he had been the preferred suitor some years ago in preference to her new lover. At paragraph 30 the judge recorded:

> "30. The Appellant appears to base his account on family retribution against him by virtue of the marital misconduct of his wife rather than himself. Simply, the account that is before me is that the Appellant's wife rekindled a romance with an old flame and deserted the Appellant. The Respondent's assertion in cross-examination of the Appellant is that the wrath of the wife's family would surely be directed at the new lover rather than the Appellant himself. If the Appellant's account has any truth in it at all – that is to say if his wife has left him for another man – the account fails upon close analysis. Moreover, there is evidence that the 'old flame' was erstwhile rejected by the wife's family

> whilst the Appellant himself was approved as a suitable marriage partner".

It was entirely within the range of reasonable responses for the judge to consider that this account was implausible. Mr Bass sought to argue that the judge's assessment at this juncture evinced an error in failing to consider appropriate contextual background because the CPIN provided by the respondent confirmed that honour crimes can be directed against males. However, the passage he relies on at paragraph 7.1.3 supports the judge's assessment in that whilst it did not exclude that "occasionally" males are also the victims of honour crimes, such crimes are "overwhelmingly perpetrated against female relatives". This background evidence also gives the lie to Mr Bass's suggestion that the judge's decision demonstrates a failure to take account of local cultural norms relating to honour killings.

10. Mr Bass submitted that the judge's decision erroneously relied on one inconsistency, relating to the date of the arrest warrant. However, first of all the judge did not rely solely on this inconsistency. He also relied on the appellant's lack of a satisfactory explanation for it and the implausibility of the appellant's account. It would appear the late production of the arrest warrant was also a factor.

11. The appellant's ground queried the fact that the judge had dealt with the issue of returnability before addressing the issue of risk on return. That is true, but the judge made clear at the outset of his assessment of both issues that the credibility of the appellant's narrative was "a basic one in this appeal" (see paragraph 49). Further, there is nothing to suggest that this ordering impacted on the judge's assessment of credibility or indicated that a non-holistic approach was taken. Clearly, the judge had in mind that if satisfied that the appellant could not obtain a CSID, he would be entitled to succeed in his appeal.

12. For the above reasons I conclude that the judge did not materially err in law and accordingly his decision to dismiss the appellant's appeal must stand.

No anonymity direction is made.

Signed Date: 28 February 2019

H H Storey

Dr H H Storey
Judge of the Upper Tribunal