



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

Appeal Number: PA/09999/2018

THE IMMIGRATION ACTS

**Heard at Manchester
On January 21, 2019**

**Decision & Reasons Promulgated
On 12th February 2019**

Before

DEPUTY UPPER TRIBUNAL JUDGE ALIS

Between

**MR AHMED KREKAR MUHAMMAD
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Siddiq, Legal Representative

For the Respondent: Mr Tan, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant is an Iraqi national who claimed to have entered the United Kingdom in September 2017. He claimed asylum on September 26, 2017 and the respondent refused his application on August 2, 2018.
2. The appellant appealed that decision under Section 82(1) of the Nationality, Immigration and Asylum Act 2002 on August 15, 2018 and his appeal was heard by Judge of the First-tier Tribunal G Jones on September 13, 2018 and in a decision promulgated on October 2, 2018 the Judge dismissed his appeal on all grounds.

3. Grounds of appeal were lodged on October 19, 2018. Within those grounds it was argued that the Judge had erred by concluding that if the appellant and his partner had had a relationship outside of marriage the appellant would have faced a greater risk. This finding was made despite it not being raised in his asylum interview, the decision letter or at the hearing. By failing to allow the appellant to address such an issue there was arguably an error of law.
4. In granting permission to appeal Judge of the First-tier Tribunal Haria found it was arguable that such a finding in the circumstances outlined above may amount to a material error of law.
5. On November 28, 2018 the respondent filed a Rule 24 response opposing the appeal and submitting the Judge had directed himself appropriately and had made findings open to him between paragraphs 56 and 58 of his decision. In particular, the conclusions reached at paragraph 58 formed the basis for the Judge rejecting the asylum claim and finding adversely on the appellant's credibility.
6. No anonymity order is made.

SUBMISSIONS

7. Mr Siddiq adopted the grounds of appeal as presented. He submitted the Judge's approach to credibility, on the core issue of whether the appellant involved in an adulterous relationship, was flawed. Simply put, he submitted the Judge had not accepted the affair was discovered and he referred to key findings in paragraphs 56 to 58 of the decision where the Judge said it would be difficult if the relationship had been discovered for there to be no consequences for [A].
8. At paragraph 58, the Judge had found the fact that [A] could divorce her husband and had come to no harm undermined the appellant's claim. Mr Siddiq submitted it had never been put to the appellant why [A] did not come to any harm and more specifically why she had not come to any harm from her ex-husband, [R]. Limited questions had been put to the appellant in his interview and Mr Siddiq submitted that these questions did not address this issue. Whilst the Judge had anchored his finding on objective evidence, he had failed to consider the individual facts of this case when doing so. In closing, Mr Siddiq submitted that whilst it was clear [A] would not be at harm from her family the Judge had erred by not considering why she would not be at risk from [R].
9. Mr Tan adopted the contents of the Rule 24 letter dated November 28, 2018 and referred to the findings at paragraphs 54 and 55 as well as the findings between paragraphs 56 and 58. The Judge had come to a finding that she had come to no harm and had been able to divorce her husband and taking the earlier findings regarding the alleged relationship that had taken place after her marriage he submitted the Judge had given adequate reasons. Whilst the Judge may not have addressed the specific question

that Mr Siddiq was raising, he submitted that the Judge had dealt with the issue at paragraph 56 and the matter had been raised indirectly in questions 74 and 182 of the asylum interview. Alternatively, even if it is a matter that should have been specifically raised he submitted that there had been no challenge to the issue of internal relocation that was dealt with at paragraphs 61 to 66 of the decision.

10. In response Mr Siddiq emphasised the need to establish clear facts and findings with each case turning on its own merits.

MY FINDINGS

11. This is an appeal brought by the appellant against a decision to refuse his protection claim. Reading the Judge's decision, it is clear at paragraph 59 that the Judge accepted that the appellant and [A] had at one time been in a relationship. He had noted the evidence to have been that they had met in secret on a roof and had avoided going out in public places. The issue which brought this matter to the Tribunal's attention was what was alleged to have happened after [A] had married [R]. The Judge considered that relationship and at paragraphs 54 and 55 made a number of adverse findings about the appellant's relationship with [A] and in particular he did not find it credible that having taken steps to meet in secret and discreetly that they would repeatedly risk meeting up at [A]'s matrimonial home and have taken photographs of themselves in her home in the knowledge that her ex-husband was a high ranking Peshmerga soldier from a family that was said to have a great deal of power and influence in Kurdistan.
12. Those specific findings were not challenged in the grounds of appeal and Mr Siddiq, after discussion during the hearing, argued the error of law on the basis that the Judge had failed to consider the specific risk posed by [R] to [A] and the appellant were he to return. The argument advanced was that the Judge had not considered that risk and his finding that [A] had come to no harm failed to address the risk posed by [R].
13. In considering the risk to both the appellant and [A] the Judge noted the appellant's response during his asylum interview at question 74 when he stated that [A] had come to no harm and she would only be at risk if he were to return to Iraq. The challenge today is that more weight should have been placed on the position of [R] and that relationship that existed between him and [A].
14. I am satisfied that in considering the issue of risk the Judge had to establish the facts of the case and in doing so he rejected the claim put forward of events post [A]'s marriage to [R]. The Judge clearly did not accept the appellant's account and gave detailed reasons for this in his decision. Whilst the Judge did not specifically go on to consider a risk to [A] from [R], that has to be looked at against the background of the Judge's reasons for rejecting the claim. The Judge had clearly not accepted what was being put forward and he was satisfied there were no

previous problems for [A] and therefore he was not persuaded she would be at risk of an honour killing and gave reasons for this conclusion.

15. The Judge went on to consider objective evidence specifically in relation to the appellant although it seems the thrust of the submissions to me today centred upon the alleged failure by the Judge to consider the risk to [A].
16. For the reasons I have given above I am satisfied the Judge having made the crucial findings he did in paragraphs 54 and 55, and to a lesser extent the beginning of paragraph 56, there was no need to consider a direct threat from [R] because he had rejected that element of the claim.
17. The Judge went on to consider internal relocation on the basis that even if there was some concern about [R] there was the option of internal relocation and again this specific point had not been challenged in the grounds of appeal.
18. It was argued by Mr Siddiq that this subsequent finding was flawed for the same reason namely that the Judge found at paragraph 64 that [A] had not come to any harm at all since he left. The decision needs to be read as a whole and whilst I understand the argument put forward by Mr Siddiq I am not persuaded that the argument identifies a material error of law and for that reason I dismiss this appeal.

Notice of Decision

The appeal is dismissed on all grounds.

No anonymity direction is made.

Signed

Date 7/2/2019



Deputy Upper Tribunal Judge Alis

TO THE RESPONDENT FEE AWARD

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

Signed

Date 7/2/2019



Deputy Upper Tribunal Judge Alis