



IAC-AH-SAR-V1

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

Appeal Number: PA/04352/2019

THE IMMIGRATION ACTS

Heard at North Shields

On 13 March 2020

**Decision & Reasons
Promulgated
On 24 March 2020**

Before

UPPER TRIBUNAL JUDGE LANE

Between

**OAA
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Boyle, instructed by Iris Law Firm

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

DECISION AND REASONS

1. The appellant was born in 1991 and is a Kurdish male citizen of Iraq. His home area is Kirkuk. By a decision dated 26 April 2019, the Secretary of State refused the appellant international protection. The appellant appealed to the First-tier Tribunal which, in a decision promulgated on 18 July 2019, dismissed the appeal. The appellant now appeals, with permission, to the Upper Tribunal.
2. I find that the decision of the First-tier Tribunal is flawed by legal error such that it falls to be set aside. I notified the representatives of my

decision at the initial hearing. Mr Diwnycz, who appeared for the Secretary of State, did not offer any submissions in support of the First-tier Tribunal decision.

3. No issue was taken in the grounds of appeal with the judge's rejection of the appellant's account as wholly unreliable. Consequently, the judge's findings of fact on the appellant's account of past events shall stand. Having rejected the appellant's credibility, the judge considered whether he was at real risk in his home area. At the time, background material and relevant country guidance indicated that Kirkuk lay in the contested area. The judge found that the appellant could not return to his home area, a conclusion which both parties accept.
4. The judge then considered the option of internal flight. It was at this stage that the judge fell into error. At [50], the judge found that the appellant will be returned to Baghdad but seems to have taken the view that serious risks for the appellant would only arise should he remain living in that city 'long-term.' The judge has given no reason for qualifying the risk to which the appellant might be exposed in Baghdad. She does not define what she means by 'long-term.' The country guidance in force at the time (*AA (Iraq)* [2017] EWCA Civ 944 and *AAH (Iraqi Kurds - internal relocation) Iraq* CG UKUT 00212 (IAC)) indicated that single male Iraqi Kurds faced a real risk of serious harm should they remain living in Baghdad without identity documentation (CSID). That country guidance does not suggest that only those who remain 'long term' in Baghdad would be at real risk.
5. As regards identity documentation, the judge's analysis is not clear. The judge did not 'accept that there are barriers to the appellant obtaining his CSID or another passport with the help of his family.' She observed that the appellant 'has a transferable skill having worked as carpenter and he has the possibility of family support from Kirkuk should he decide to live in the IKR.' The judge makes no reference to the severe difficulties in obtaining employment in the IKR to which the background material before her refers. Moreover, she did not explain how 'the possibility of family support from Kirkuk' would in practice be available to the appellant. She did not explain how the appellant would obtain a replacement CSID without himself having to travel to the contested area in which Kirkuk is situated. She has not made it clear how, from their home outside the IKR, the appellant's family would actually assist him in the obtaining the a CSID or how the appellant would gain access to the IKR in the first instance without the document. In any event, she refers to the assistance being available only as a 'possibility'; she has made no firm finding that family assistance is reasonably likely to be available to the appellant.
6. In the light of what I say above, I find that the decision is flawed by legal error and I set it aside. Whilst there will not need to be a re-examination of the appellant's account of past events in Iraq, further evidence may be required in order for the decision to be remade in the light of the new country guidance, *SMO, KSP & IM (Article 15(c); identity documents) Iraq* CG [2019] UKUT 400 (IAC). The Tribunal will need to consider whether the

appellant may now return to his home area and, if not, whether it would be unduly harsh for him to exercise internal flight within Iraq. The Tribunal will need to make findings regarding the likelihood of the appellant obtaining identity documents (a CSID or the newer INID) from Iraq or Iraqi consular services in the United Kingdom before he departs for Iraq. Given the fact finding which will be required, it is appropriate for the decision to be remade in the First-tier Tribunal to which this appeal is now returned.

Notice of Decision

The decision of the First-tier Tribunal is set aside. The judge's findings rejecting the credibility of the appellant account of past events shall stand. The appeal is returned to the First-tier Tribunal for that Tribunal to remake the decision following a hearing.

Signed
2020
Upper Tribunal Judge Lane

Date 17 March

Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008

Unless and until a Tribunal or court directs otherwise, the appellants are granted anonymity. No report of these proceedings shall directly or indirectly identify them or any member of their family. This direction applies both to the appellants and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.