



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

Appeal Number: PA/08183/2019

**THE IMMIGRATION ACTS**

**Heard at Bradford**

**On 14 February 2020**

**Decision & Reasons  
Promulgated  
On 5 March 2020**

**Before**

**UPPER TRIBUNAL JUDGE LANE**

**Between**

**AA  
(ANONYMITY DIRECTION MADE)**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: Mr Jagadesham

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

**DECISION AND REASONS**

1. The appellant was born in 1979 and is a male citizen of Iraq. He appealed to the First-tier Tribunal against a decision of the Secretary of State dated 5 August 2019 refusing his application for international protection. The First-tier Tribunal, in a decision promulgated on 20 November 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 should be set aside. I have reached that decision for the following reasons.
3. At [16], the judge found that the appellant had 'changed his account between interview and his witness statement prepared for the hearing.' The judge found that, in his asylum interview, the appellant had told the officer that the man with whom his family had a land dispute was connected to a tribe in Iraq which he identified as '[L S]'. The judge noted that, since the interview, the appellant and his witness statement had identified the tribe to which the man belonged as 'Rokhzaee.' At the initial hearing before the Upper Tribunal, both representatives agreed that the judge had misunderstood the evidence; [L S] had consistently been identified by the appellant as the individual with whom his family had a dispute and not the tribe of which the individual was a member; that tribe has been identified by the appellant throughout as Rokhzaee. Mr McVeety, who appeared for the Secretary of State before the Upper Tribunal, accepted that the weight given by the judge to this incorrect identification of a discrepancy in the evidence seriously undermined the analysis as a whole. Indeed, the judge describes what she considered to be a discrepancy as a 'central feature of [the appellant's] case and something I consider he should have been reasonably able to give a clear and consistent account about.'
4. I have no reason to suppose that the judge has not carried out an evaluation of the totality of the evidence, as she was required to do. In reaching her conclusion that the appellant account was untrue, it is impossible to separate out her misunderstanding part of the evidence from unchallenged findings elsewhere in the decision. In any event, it is clear that the judge did not consider this part of the case to be peripheral. In the circumstances, there is no alternative but to set aside all the findings of fact and to direct examination of the evidence *de novo* and remaking of the decision. Given the extensive fact-finding required, that process is better conducted before the First-tier Tribunal.

### **Notice of Decision**

The decision of the First-tier Tribunal set aside. None of the findings of fact shall stand. The appeal is returned to the First-tier Tribunal for that Tribunal to remake the decision.

Signed

Date 13 February 2020

Upper Tribunal Judge Lane

**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.