



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

Appeal Number: PA/08391/2019

THE IMMIGRATION ACTS

**Heard at Manchester Civil Justice Centre
via Skype for Business/BT Meetme**

**Decision & Reasons
Promulgated
On 07 September 2020**

On 1 September 2020

Before

UPPER TRIBUNAL JUDGE LANE

Between

**HM
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms Masih, instructed by Hallmark, solicitors

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

DECISION AND REASONS

1. The appellant was born in 1991 and is a male citizen of Iraq. By a decision dated 24 April 2019, the respondent refused the appellant's claim for international protection. The appellant appealed to the First-tier Tribunal which, in a decision promulgated on 10 December 2019, dismissed his appeal. The appellant now appeals, with permission, to the Upper Tribunal.
2. The appellant claims to have been a member of the Patriotic Union of Kurdistan (PUK) and worked as a police officer for Asayish, the PUK security service. He was involved in an incident on 25 December 2018 with the Hamavand Tribe and further violent incidents in January 2019, including one at a police station in which a colleague was killed. This latter incident prompted the appellant to go into hiding and subsequently to flee to the United Kingdom. The judge accepted these parts of the appellant's account as true and accurate. She accepted that the appellant had a subjective fear of the Hamavand Tribe on account of the possibility of a blood feud arising from the incidents he had described. She did not accept that the appellant had a subjective fear of the Kurdish authorities because he had deserted from his post as a police officer; she found that the appellant's 'superior officer was involved in his decision to leave Iraq and assisted him in doing so' [18]. The judge did not accept that the appellant would face serious harm as an undocumented ethnic Kurd and Sunni Muslim; she did not believe the appellant's claim to have lost his passport and his CSID and found [28] that his identity card would be in possession of his family with whom she found the appellant had not lost contact. The appellant, therefore, could return to Iraq and the IKR via Baghdad. The judge found that the Kurdish authorities would be willing and able to protect him from the Hamavand Tribe [21]. Finally, even if the appellant did find himself in danger in his home area (the Hamavand Tribe operates in Chamchamal and the Bazayn region of the IKR) she was not satisfied that the tribe's 'reach extends beyond this area' consequently the appellant would be able to relocate without undue hardship.
3. The first ground complains that the judge failed to make findings on material evidence. Appellant had produced a letter from the Ministry of Interior warning employees in general against travelling abroad and engaging in particular activities. The appellant complains that the judge has not made finding as to the weight to be given that letter. Moreover, the appellant had given explanations, ignored by the judge, as to why his reliance upon the letter was not inconsistent with his claim that his boss had officially sanctioned the appellant's flight from Iraq.
4. I am not satisfied that the ground exposes any error in the judge's reasoning. First, I find that the judge will have taken into account all evidence that was before her in reaching her findings of fact. It is clear from the decision [10] that the judge had regard to the appellant's 'explanations'. A finding that the letter from the Ministry of Interior was not consistent with the appellant's claim that his own superior officer had encouraged him to leave Iraq was plainly available to the judge on the

evidence. Whilst the judge does not expressly attach particular weight to the letter, it is clear that she has taken all relevant evidence into account in identifying the inconsistency in the appellant's account which led her to disbelieve the appellant's claim that he fears the Kurdish authorities. In essence, the judge has accepted that the appellant was encouraged to leave following the incidents in which he had been involved in that the generic nature of the letter (significantly making no specific reference to the appellant himself) did not bear sufficient evidential weight to prove that, having been encouraged by an officer to leave Iraq, the appellant would be punished in some way upon his return.

5. The second ground concerns the appellant's claim that he had received threats from an unknown source which had appeared on his Facebook account. The evidence regarding Facebook and the judge's account of that evidence are somewhat, in parts, a little difficult to follow. However what is clear is that the judge did not accept the appellant's claim that he been unable at the time of the hearing to provide details of his Facebook account because he had forgotten his password and because his mobile phone had been taken during the journey to the United Kingdom. The judge makes the point (not contradicted by the appellant) that it is possible to obtain access to a Facebook account by requesting a new password via the email address linked to the account. As Mr McVeety, who appeared for the Secretary of State, submitted that finding enabled the judge legitimately to attach limited weight to the Facebook evidence. In any event, since the 'threats' on the account emanated from an unknown source, it was open to the judge to conclude that the appellant had failed to prove that he was at risk from the Kurdish authorities.
6. The appellant also complains that the judge at [14] and [17] had found that the appellant had been inconsistent in his evidence regarding his claimed loss of contact with his family in Iraq. I acknowledge that the expressions used by the judge are sometimes problematic; it is clear that the judge sometimes uses the word 'inconsistent' when she really intends to say that the evidence is not credible. However, it was open to the judge to find that is not credible that the appellant would have brought with him to the United Kingdom those documents which assisted his case (eg. his police identification card) whilst 'conveniently' losing every document which might show that he is safe to return home. Having rejected the appellant's claim that he had lost his CSID, it follows that the judge proceeded on the basis that the card was available to him. To do so was not an error in law.
7. The appellant also complains that the mere existence of a system of protection in the IKR 'does not automatically preclude victims of non-state persecution from recognition as a refugee'. That ground is not made out. I accept the respondent's submission that there is no evidence at all that tribes such as that which the appellant claims to fear either seek open conflict with the Kurdish authorities, that the reach of such tribes throughout the IKR is such that there is nowhere in the region where the appellant would be safe or that links between the state authorities and the

tribes would in some way pose a threat to the appellant. Whilst it would have been helpful had the judge dealt with the issue of sufficiency of protection in slightly greater detail, I find that grounds of appeal do not disturb her findings.

8. In conclusion, therefore, the judge's assessment at the appellant may fear the Hamavand Tribe having been involved in violent incidents with it; that he left Iraq with the official sanction of his superior officer; that the Kurdish authorities are willing and able to protect him in the future in his home area; that, should he feel unsafe in his home area, there are other parts of the IKR to which he might reasonably relocate; that he will be able to return to Iraq via Baghdad and travel from there to the IKR safely because he would have access to his CSID is not flawed by legal error for the reasons asserted in the grounds of appeal or at all. Consequently, the appeal is dismissed.

Notice of Decision

The appeal is dismissed.

Signed

Date 2 September 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.