



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

Appeal Number: PA/09182/2019

**THE IMMIGRATION ACTS**

**Heard at Manchester Civil Justice Centre  
On 16<sup>th</sup> January 2020**      **Decision & Promulgated  
On 3<sup>rd</sup> February 2020**      **Reasons**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE KING TD**

**Between**

**MR RAWAND ALI FATEH**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: Mr H Sadiq of Adam Solicitors  
For the Respondent: Mr A McVeety, Home Office Presenting Officer

**DETERMINATION AND REASONS**

1. The appellant was born on 23<sup>rd</sup> September 1997 and is a citizen of Iraq. He arrived in the United Kingdom on 25<sup>th</sup> November 2017 and claimed asylum or other protection.

2. By a decision of 11<sup>th</sup> September 2019, the respondent refused the claim and declined to give any relief.
3. The appellant sought to appeal against that decision, which appeal came before Designated Judge of the First-tier Tribunal McClure on 28<sup>th</sup> October 2019.
4. It was the case as advanced on behalf of the appellant that he was at risk from ISIS or from any organisation that had replaced it. He originally came from Mosul and said that whilst in Mosul he worked with his maternal uncle as a mechanic and selling water. Whilst he and his sister were out shopping he was seized by a group of ISIS followers but eventually managed to escape. He managed to get back to his uncle's shop. His uncle helped him out of Mosul and made arrangements for him to cross the border into Turkey. In Turkey the appellant claimed that he spent some two years working in a restaurant. It was not doing very well but he was paid a significant sum of money which he saved up which allowed him to make the journey out of Turkey to the United Kingdom.
5. The Judge comprehensively disbelieved the appellant as to his account for the reasons as set out in the determination. He did not find the account of his seizure by ISIS together with his sister and his escape credible and cogent reasons for finding that are set out in the determination.
6. Further, it was not accepted, given the experiences of the appellant in Turkey, that he would have had the resources purely from working to finance his journey to the United Kingdom. The Judge came to the conclusion that throughout this matter the appellant had been supported by his maternal uncle and others.
7. Thus, in terms of return, the Judge noted that there were returns to Mosul and also to Erbil.
8. The appellant claimed that his CSID card had been at home and that his uncle no longer could be contacted by telephone and none of his friends could be contacted by telephone, whether mobile or landline. The Judge did not accept that the appellant would be unable to contact his family members or friends. There was no reason why he could not contact his family in order to obtain the necessary documentation. Indeed there was no why the appellant could not obtain the financial assistance of his uncle and of his family.
9. Thus, it was that the appeal was dismissed.
10. The appellant sought to appeal against that decision on the basis that there was no evidence of any functioning registry in Mosul and no pertinent consideration under the guidance set out in **AAH (Iraqi Kurds - internal relocation) Iraq CG [2018] UKUT 00212**. It is argued that the Judge failed to consider the difficult situation of Mosul, that it had been

ravaged in recent years and that millions had fled the city. Such was, it was argued, a relevant consideration in terms of the accessibility to the appellant to family members and support in obtaining the relevant documentation.

11. Further, it was argued that the Judge had vastly underestimated the difficulty facing the appellant in obtaining the CSID card.
12. Leave to appeal was granted on those matters and thus, the appeal comes before me to determine those challenges.
13. The Upper Tribunal has published further country guidance on the issue of Iraq in **SMO, KSP & IM (Article 15(c); identity documents) Iraq CG [2019] UKUT 00400 (IAC)**. This is a recent decision promulgated in December of 2019 and looks at matters that would have been current at the time that the determination in relation to the appellant's case was being heard.
14. It is argued on behalf of the appellant that fairness would dictate that he should have the benefit of having his case considered in the light of that new country guidance case.
15. Mr Sadiq cogently argues that it is entirely apparent from that decision that Western Mosul is largely in ruins whereas Eastern Mosul is in a better condition. Millions fled during the occupation by ISIS although it would seem that nearly 1,000,000 have subsequently returned. He submits that, given the extent of the destruction, it cannot be reasonably considered without more attention to the detail that the appellant had a home to go to or that he has family members still living in Mosul, given the extent of the destruction and the many people who left in the conflict. It was argued therefore that it is simplistic in the extreme for the Judge to consider that there would be any viable family support open to the appellant to obtain a CSID.
16. Further, and linked of course with that submission is the contention that because so many people have returned that the conditions in Mosul and indeed in other cities are extremely bad, given the overcrowding, lack of employment and so forth.
17. It is said, therefore, that the appellant could not return without the CSID and in any event if returned would meet humanitarian difficulties.
18. The Upper Tribunal in **SMO** has been entirely clear that return to most parts of that area including Mosul and Erbil would not entail any breach of Article 15(c).
19. In some ways the recent country decision potentially advances the case of the appellant and in others not. For example, an argument that was advanced by the respondent was that the laissez-passer issued to

facilitate removal to Baghdad would also act as an identity document for travel further onwards. The Tribunal rejected that contention, saying that it was likely that upon arrival in Baghdad the laissez-passer would be confiscated and that there needed to be therefore some valid authority to travel further without engaging with checkpoints. It is also said that the central registry in Baghdad would not be of much assistance to people who were not born there.

20. That having been said, there is little in the decision of **SMO** as to whether or not there are records still preserved in Mosul. What is clear is that a CMO has been established in nearby towns including Erbil so as to facilitate those from Mosul obtaining a CSID.
21. Whether the appellant's home was in the destroyed area or on the eastern part is perhaps unclear. What is entirely clear, however, and of utmost relevance, it seems to me, in the factual matrix of this case, is the continuing support of the appellant certainly by his uncle if not their family as found by the Judge. Mosul itself was retaken in July 2017 and many returned to the city at that time, having been displaced previously.
22. The appellant entered the United Kingdom in November 2017, having claimed that for the previous two years he had been living and working in Turkey. The Judge's finding was that he had been at least provided with the financial support to come to the United Kingdom, which was not inconsiderable. It was the finding of the Judge that such support came from the uncle or family. In other words, whatever may or may not have been the situation prior to 2017, it was clear that in 2017 the appellant's family members or some of them were so sufficiently established as able to financially support him. So, although there may have been great destruction within Mosul it was the finding of the Judge that the family members were still able to lend support. It seems to me that in the context of the evidence given at the hearing, that that is a reasonable and sensible conclusion open to the Judge to make. No detail has been provided by the appellant as to where he lived or indeed as to whether that was an area totally destroyed or not.
23. The great hurdle which the appellant faces is the very clear finding that throughout his claim and continuing he has not been credible nor told the truth as to his experiences.
24. That is particularly relevant when it comes to the details of the CSID itself. In order to obtain a replacement, it is necessary to have details as to the volume, page and the civil number that is attached to that document. In paragraphs 391 and 392 of **SMO** the Tribunal consider that it would be extremely unlikely, given the centrality of such a document to the lives of those who own it, that those who fled from the area would not have taken the document with them and certainly would have been aware of the detail as to its volume, page and number, such as to obtain a replacement.

25. In this particular case the Judge was faced with an individual whom he has found (and significantly not a matter that has been the subject of appeal) thoroughly discredited as to the evidence given. The appellant is untruthful about the reason for leaving and what he did and how he lived his life thereafter. It would be surprising indeed that any reliance could be placed upon his evidence that he left this vital document behind at home or that he could not remember its details in order to get a replacement or that family members could not assist him in that process.
26. Mr McVeety invites me to find that, rather than assisting the appellant's case, the more recent country guidance gives little assistance to it. Although there was no specific finding made by the Tribunal Judge as to whether or not the appellant in fact had his CSID that would be a finding open to the Tribunal to make upon a rehearing and would be one in which, given the strong findings of lack of credibility, and the comments in SMO is likely to be made. The reality is that it is extremely unlikely, he submits, that the appellant left without his document. He had not been truthful in any aspect of his claim and therefore his contention that he does not have the document and cannot find it and that he does not a family member and cannot find one is to be given little weight in common sense and reason.
27. Mr Sadiq seeks to argue that the matters were not put to the appellant and therefore that he ought to have the opportunity and fairness to dealing with them. He also contends that the findings of the Tribunal in **SMO** as to documentation does not assist as to the humanitarian problems that people returning by their millions to an area of little infrastructure would have.
28. Looking at the matter overall, I find that, although there were perhaps criticisms that could be made of the determination and in particular the potential confusion which the Judge had as to whether certain areas were part of the Kurdistan region of Iraq, nevertheless the overall findings as to credibility were sustainable and, as I have indicated, have not in fact been challenged. People are returning to Mosul. There is an alternative registry set up to deal with those from Mosul. The appellant could in any event safely return to Erbil if not to Mosul and the finding by the Judge that he has still family members in Mosul that could assist him in relation to the CSID are, in my view, properly open to be made.
29. I find there to be little assistance that would be given to the appellant in considering **SMO** in detail but rather that it is a decision that is generally unhelpful to the appellant rather than to the reverse.
30. Looking therefore as to whether any error that may be visited upon the decision is a material one. It seems to me that consideration should be given to that country guidance case.

31. It seems to me, therefore, that the findings of the Judge were properly open to him, particularly so in the wider context as highlighted by **SMO**. The Judge found that the appellant would be able to make contact with his uncle and would be able to return and integrate himself into society in Mosul.
32. Little evidence has been adduced that would not be so.
33. Although it may be argued that the Tribunal Judge ought to have delved in a little more detail into the issue of how the appellant could access Mosul with a CSID and how he could obtain it, it seems to me that there were a number of possibilities that were open to be considered and that the Judge properly considered some of those.
34. Overall therefore, I do not find there to be a material error of law in the determination.
35. Thus, the appeal before the Upper Tribunal is dismissed. The decision of the First-tier Tribunal shall stand, namely that the appeal is dismissed in respect of asylum, humanitarian protection and Articles 2, 3 and 4 of the ECHR.

### **Notice of Decision**

The appeal is dismissed on all grounds.

No anonymity direction is made.

Signed P.D.King

Date 28 January 2020

Deputy Upper Tribunal Judge King TD