



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

Appeal Number: PA/09517/2019 (P)

**THE IMMIGRATION ACTS**

**Decided under rule 34  
On 21<sup>st</sup> July 2020**

**Decision & Reasons Promulgated  
On 4<sup>th</sup> August 2020**

**Before**

**UPPER TRIBUNAL JUDGE JACKSON**

**Between**

**AAO  
(ANONYMITY DIRECTION MADE)**

Appellant

**And**

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

Respondent

**DECISION AND REASONS**

1. Pursuant to directions sent on 17 April 2020 and amended on 13 May 2020 indicating a provisional view that in light of the need to take precautions against the spread of Covid-19 and the overriding objective, it would be appropriate in this case to determine the issue of whether the First-tier Tribunal's decision involved the making of an error of law and if so whether the decision should be set aside; the parties agreed with no objections being raised and both made written submissions on the issues raised in the appeal. It is in the interests of justice to proceed to determine these issues on the papers in light of the detailed written submissions from the parties and the full appeal files.
2. The Appellant appeals with permission against the decision of First-tier Tribunal Judge Parker promulgated on 27 November 2019, in which the Appellant's appeal against the decision to refuse his protection and human rights claim dated 12 September 2019 was dismissed.

3. The Appellant is a national of Iraq, born on 8 May 1988, who arrived in the United Kingdom on 8 March 2008 and applied for asylum that day. The Respondent refused his claim in a decision dated 26 February 2010 and his appeal against refusal was dismissed on 15 April 2010. The Appellant made further submissions on 10 April 2018, the refusal of which is the subject of this appeal.
4. The Respondent refused the application the basis that ...
5. Judge Parker dismissed the appeal in a decision promulgated on 27 November 2019 on all grounds.

### **The appeal**

6. The Appellant appeals on five grounds as follows. First, that the First-tier Tribunal materially erred in law in failing to have regard to relevant considerations and was procedurally unfair in not accepting the Appellant's home area is Kirkuk, which has never been in dispute and was not raised with the Appellant at the hearing. Secondly, that the First-tier Tribunal made material mistakes of fact as to the Appellant's date of birth and whose identity card was taken to the Iraqi Consulate; failed to properly take into account the evidence and failed to apply the applicable law and country guidance in terms of the Appellant's ability to obtain an identity card and as to contact with family members to do so. Thirdly, that the First-tier Tribunal materially erred in law in failing to take into account relevant evidence and/or failing to give adequate reasons as to the Appellant's family in Iraq. Fourthly, that the First-tier Tribunal materially erred in law in its consideration of whether there was an Article 15(c) risk to the Appellant in Kirkuk, the claim being rejected without reasons and without giving adequate reasons for departing from the then country guidance to the contrary. Finally, that the First-tier Tribunal materially erred in law in failing to apply the country guidance as to whether the Appellant could travel from Baghdad to the IKR and as to the reasonableness of internal relocation.
7. In her rule 24 response dated 28 April 2020, the Respondent indicated that she did not oppose the appeal, agreeing that the decision of the First-tier Tribunal was not entirely coherent and considered matters in issue that were not which affected the credibility findings; had failed to give reasons for some findings and has not properly considered the Appellant's ability to obtain a CSID or travel to Baghdad or the IKR. As such, it is submitted that the decision should be set aside and the appeal remitted to the First-tier Tribunal for a de novo hearing.
8. Further detailed written submissions were received on behalf of the Appellant, as well as confirmation that the Appellant agrees with the Respondent's submissions and that the First-tier Tribunal decision should be set aside and the appeal remitted to the First-tier Tribunal for a de novo hearing. In light of the agreement between the parties, I do not set out here the further detail in those written submissions.

## **Findings and reasons**

9. I find that the Respondent has properly and appropriately accepted that the First-tier Tribunal's decision contains material errors of law such that it is necessary to set it aside. The First-tier Tribunal's decision is very poorly written, without proper punctuation, grammar or structure and is at least in parts more of a stream of consciousness in note form rather than what is reasonable to expect in a Tribunal decision setting out the issues, evidence, law and findings clearly. The decision is not coherent or internally consistent and I find that all grounds of appeal identified establish material errors of law such that it is necessary to set it aside. Given the succinct reasons given by the Respondent with which I agree, I do not set out any more detailed findings or reasons on each of the five separate grounds of appeal beyond the general comments already made.
10. Separately, the parties are both aware of the new country guidance in SMO, KSP & IM (Article 15(c); identity documents) CG Iraq [2019] UKUT 400 which will be relevant to the fresh determination of this appeal. That new country guidance to some extent overtakes the materiality of some of the findings of the First-tier Tribunal (such as they were) in relation to the old country guidance but is not sufficient reason to find that there was no material error of law in the decision of the First-tier Tribunal, nor to preserve any findings of fact.

## **Notice of Decision**

The making of the decision of the First-tier Tribunal did involve the making of a material error of law. As such it is necessary to set aside the decision.

I set aside the decision of the First-tier Tribunal and remit the appeal to the First-tier Tribunal (Manchester hearing centre) to be heard de novo by any Judge except Judge Parker.

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

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

Signed G Jackson

Date

21<sup>st</sup> July 2020

Upper Tribunal Judge Jackson