Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: PA/10629/2019

THE IMMIGRATION ACTS

Decided on the papers **Decision & Reasons Promulgated On 10 August 2020**

Before

UPPER TRIBUNAL JUDGE BLUNDELL

Between

AHA
(ANONYMITY DIRECTION MADE)

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

DECISION AND REASONS

1. The appellant was born on 1 August 1983. His nationality has been in dispute since his arrival in the United Kingdom in October 2014. Throughout, he has claimed to be an Iranian national of Kurdish ethnicity who spent some years living in the Independent Kurdish Region ("IKR") of Iraq. For reasons which I will explain in due course, however, the respondent decided that the appellant is an Iraqi national, and the stage was set for six years of litigation.

Background

2. There was initially some consideration given to removing the appellant to Romania on Third Country Grounds, under the

Dublin Convention in force in 2014. Ultimately, however, the appellant underwent interviews with the respondent and described a claim for asylum which I propose only to summarise very briefly.

3. The appellant said that his father had been arrested by the Iranian authorities in June 2004, accused of supporting the Kurdish Peshmerga. He was released nearly a year later, on condition that the family would relocate to Baneh, the capital city of the Kurdish province in Iran. Instead, in June 2005, the family crossed the Iran/Iraq border illegally and began to live in Sulaymaniyah in the IKR. The appellant formed a relationship with a woman. They married without the consent of her family and decided that it would be safest to relocate away from her family. When the appellant returned to Sulaymaniyah (for medication) some years later, he was confronted by his father-in-law. In 2014, the appellant's wife left the appellant and their two children to fight for the PKK against ISIL. She was subsequently killed in combat and her family was notified of her death.

4. The appellant claimed to fear the Iranian authorities. He had left the country illegally; he had been involved with a party called Komala in the UK; his father had been involved with the peshmerga; and his wife had been involved with the pro-Kurdish PKK. He also claimed to be at risk in Iraq from his wife's family.

First Refusal Letter

5. The respondent refused the appellant's claim for asylum on 30 March 2018. She considered his knowledge of Iran to be poor and she also relied on a language analysis report from Sprakab in concluding that the appellant was not an Iranian national. Sprakab had concluded, with a high level of certainty, that the appellant had the linguistic background of someone from Iraq. The respondent had therefore determined to remove the appellant to Iraq and his fear of the Iranian authorities was immaterial. As for the asserted risk in Iraq, the respondent did not consider it to be truthful, not least because the appellant had untruthfully denied having been in Romania, where it was established that he had been fingerprinted en route to the UK.

First Appeal

6. The appellant appealed to the First-tier Tribunal and his appeal was heard by Judge Graham, sitting in Birmingham on 15 May 2018. In a lengthy reserved decision which was issued on 22 June 2018, Judge Graham dismissed the appellant's appeal on all grounds. She concluded that the appellant was an Iraqi national [28]; that he had not established a risk arising from *sur place* activities against the Iranian regime in the UK [30]-[31]; and that

he had fabricated his account of the events in Iraq [33]-[40]. Judge Graham concluded that the appellant could return to the IKR, where he had 'his parents, sisters, and brothers and his own children', who would be able to assist him in obtaining a replacement Civil Status Identity Document upon return: [41].

7. Permission to appeal against that decision was refused by the FtT (Judge Martins) and by the Upper Tribunal (Judge Jordan). The latter decision was issued on 3 January 2019.

Fresh Claim

8. Seven months later, the appellant made further submissions under paragraph 353 of the Immigration Rules. He submitted, in summary, that he could establish his nationality by an Iranian identity document and that he had been engaging in more sur place activity, as a result of which he would be at risk on return to Iran. In a statement which accompanied the submissions, he said that he had managed to obtain a copy of his Iranian ID (known as a *shenasnameh*) from contacts in Iran, who had sent it through a mobile phone app called Viber. He detailed his activities for the pro-Kurdish Komala Party in the UK and submitted that the Iranian government would not like the things he had posted on his Facebook account. Reference was also made to the appellant's mental health because his GP, Dr Parmar of the Handsworth Medical Centre, had stated that he had been started on an anti-depressant medication.

Second Refusal Letter

9. The respondent accepted that the appellant's further submissions amounted to a fresh claim under paragraph 353 of the Immigration Rules but not that he was in need of international protection. She noted that the appellant had not produced the original of the shenasnameh and she did not accept that the copy established his nationality. Having considered the evidence submitted in support of the sur place activities, the respondent did not accept that the appellant was a member of the Komala Party. Nor did she accept that he would be at risk as a result of that activity, or his postings on Facebook, which were critical of the Iranian regime. The respondent intended to return the appellant to Iraq, so these remained immaterial. The respondent then considered the situation to which the appellant would return in Iraq and did not accept that it would breach the UK's international obligations. The respondent considered that the appellant would be able to secure the documentation required to facilitate his safe return to, and settlement in, Iraq. The respondent did not accept that his return to Iraq would be in breach of the 1951 Convention, the Qualification Directive or the ECHR.

The Decision of the First-tier Tribunal

10. The appellant appealed to the First-tier Tribunal for a second time. His appeal was heard by Judge French, sitting in Birmingham on 20 January 2020. In a reserved decision which was sent to the parties eight days later, Judge French dismissed the appeal on all grounds. His decision is concise.

11. The judge recounted the appellant's immigration history at [1]. He gave himself directions on the law at [2]. He summarised the documentary evidence before him at [3] and the appellant's oral evidence at [4]. Submissions from both representatives appeared at [5] and [6]. He reminded himself of Devaseelan [2003] Imm AR 1 and R (MW) v SSHD [2019] UKUT 411 (IAC) at [7] and concluded that what he was required to consider was whether there was a 'principled and properly reasoned basis on which he could depart from Judge Graham's earlier conclusions. He then said this:

> "I have looked at what has changed in terms of the evidence put before me that was not available to the previous judge. This seems to be limited to a translated birth certificate and the fact that he is now a member rather than just a supporter of Komala and more active politically than he had been before. I do not accept that Mrs Saadnia is an expert whose views are conclusive. I raised with the appellant's advocate what the provenance of the birth certificate was, in particular how it had been obtained , supposedly from Iran, and how it had been brought to the UK and why it contained as part of the document a recent photograph of the appellant. The advocate said that he did not have instructions about the photograph incorporated in the birth certificate. I do not accept that the birth certificate is a valid document. The only other changes were the claims of political activity, but Mr Ghaderi said that even members of Komala did not do very much, and there was evidence of attendance at only two public meetings. I am conscious that copy Facebook postings are not necessarily a reliable source of evidence, since it is possible to amend an account to produce a misleading impression about what has been published. Bearing in mind all the above I am satisfied that there is not a principled and properly reasoned basis to depart from the findings of the previous judge."

12. At [8], the judge stated that he proceeded on the basis that the appellant was an Iraqi citizen and that he would be required to return there. In those circumstances, he reasoned, the appellant would not be at risk as a result of his Komala activities. He did not consider that the appellant would encounter significant obstacles in returning to Iraq: [9]. He is fluent in Kurdish Sorani and, even on his own evidence, he had lived there for nine years before coming to the UK. There was no reason to think that he would be unable to find employment in Iraq and he could fund his

own accommodation and lifestyle there. In any event, he had extensive family living there, including his mother, 3 brothers, 2 sisters and his 2 children, all of whom could assist him upon his return. Balancing the appellant's limited private life, including his medical conditions against the public interest in his removal, the judge found the appellant's removal to be a proportionate course. In so finding, the judge noted that the appellant did not have a significant mental health problem because he was not under the care of a mental health specialist and greater treatment had not been considered necessary: [10].

The Appeal to the Upper Tribunal

13. Seven (misnumbered) grounds of appeal were advanced by the appellant's previous solicitors. It was submitted that:

(i) The judge had 'pre-determined in his mind that there is no new evidence' and that he had failed to consider the new evidence which had been adduced.

(ii) The judge was unsure of the evidence and should have given the appellant the benefit of the doubt.

(iii) The judge had failed to give adequate reasons for rejecting the expert and other evidence.

(iv) The judge had made no real findings on the appellant's claim.

(v) The judge had failed to consider internal relocation.

(vi) The judge had failed to consider the country guidance decision in SMO & Ors (Iraq) CG [2019] UKUT 400 (IAC).

(vii) The judge had failed to take expert evidence (from the appellant's GP) into account.

14. Judge Saffer extended time and granted permission to appeal on each of the grounds. He considered it arguable that inadequate and unclear reasons had been given for rejecting a report prepared by someone claiming to be an expert. The rest of the grounds were weaker, he stated, but could nevertheless be argued.

15. Judge Saffer's decision was sent to the parties on 21 April, by which stage the country was obviously in 'lockdown' as a result of the global pandemic. The papers were placed before me on 30 April, with a view to a judge considering whether any progress could properly be made in the appeal despite the temporary closure of Field House to the public. I formed the provisional view that the Upper Tribunal could decide without a hearing whether the FtT had erred in law and, if so, whether its decision fell to be set aside. I drafted directions to the parties that written submissions should be made on the merits of the appeal and that

submissions could also be made on the procedural question of whether there should be a hearing.

16. The respondent lodged written submissions by email on 5 June. The papers were placed before me on 17 July. The Upper Tribunal's administrative staff noted that there had been no response from the appellant's solicitors (Optimus Law). I was concerned by the absence of a response. I suspected that there might have been no response because the respondent's submissions had not been served on the appellant's solicitors. I directed that the respondent's submissions should be served upon the appellant's within 72 hours and that they should have a further week within which to respond. The respondent duly served her submissions and, on 28 July 2020, the appellant's new solicitors (Hanson Law) filed and served written submissions in accordance with my amended directions.

17. The respondent was content for the Tribunal to proceed without a hearing. The appellant was not. It was submitted that 'the case should be decided at a face to face hearing, given the importance of the same and the fact that this is a protection claim.'

18. Rule 34(1) gives the Upper Tribunal a discretion to make any decision without a hearing. By rule 34(2), the Upper Tribunal must have regard to the views expressed by the parties in deciding whether to hold a hearing. Obviously, any decision must also be informed by the over-riding objective of dealing with cases fairly and justly. I have had regard to the views expressed by the parties. I have also considered what was said by the Supreme Court in Osborn v Parole Board [2014] 1 AC 1115. I accept what is said by the appellant's solicitors about the importance of the issues but there is no requirement for all protection proceedings to be the subject of an oral hearing. All must depend on the context. At this stage, the only questions to be determined are whether the FtT erred in law and whether its decision falls to be set aside. There are no disputed questions of fact, nor does the credibility of the appellant or a witness fall to be assessed before me. I consider that I can fairly and justly consider the appeal to the Upper Tribunal on the basis of the written submissions which have been made.

Submissions

19. The appellant's solicitors submitted in the grounds of appeal that the judge had 'pre-determined' that there was limited evidence and that it was not capable of belief. The appellant's birth certificate was not 'limited evidence' and it proved the appellant's nationality. The judge had failed to give any or any adequate reasons for rejecting that document, or the other

documents which bore on the risk to the appellant. As to ground two, the judge had stated that he was 'conscious' of the possibility that Facebook accounts could be manipulated. He should have given the appellant the benefit of the doubt in that respect.

20. As to ground three, it was submitted that the judge had not given any reason for rejecting the opinion of Mrs Saatnia. As to ground four, it was submitted that the judge had failed to 'consider any aspect of the appellant's claim at all' and had failed to consider Article 3 ECHR. In respect of ground five, it was submitted that the judge had failed to apply the test in Januzi [2006] 2 AC 426 to the consideration of internal relocation. The judge had noted that the appellant had a better prospect of securing employment in Iraq than he did in the UK but that was not the correct test. In respect of ground six, it was submitted that the judge had failed to mention or to apply the country guidance in SMO (Iraq) [2019] UKUT 400 (IAC); it mattered not whether the decision had been drawn to the attention of the FtT. Finally, in relation to ground seven, it was submitted that the judge's consideration of the GP's letter had been legally inadequate; he was a medical professional who would not simply have taken the appellant's account at face value. And the judge had failed to consider whether the appellant's depression might, in the minds of a Muslim population, be indicative of demonic possession.

21. Written submissions in defence of the judge's decision were filed by Ms Jones, a Senior Presenting Officer. She focused on what she considered to be the principal basis on which Judge Saffer had granted permission to appeal. She submitted that the judge's treatment of the medical evidence from the appellant's GP had been precisely in accordance with the reported decisions in which it had been held that the more a diagnosis is dependent on assuming that the account given by the appellant was to be believed, the less likely it is that significant weight will be attached to it. In respect of the remaining grounds, Ms Jones submitted that the judge had given proper and sustainable reasons for his decision to reject the appellant's account and the grounds amounted to nothing more than a disagreement with the decision.

22. In reply, the appellant's solicitors submitted that the judge had erred in his treatment of the medical evidence. In particular, the judge had erred in concluding that the appellant's condition was not significant due to the absence of specialist referral; the judge was not an expert and there could be other plausible reasons for the absence of a referral. The judge had erred in his approach to Devaseelan [2003] Imm AR 1. The respondent's submissions had focused on only one of the appellant's complaints, whereas all

had been said by Judge Saffer to be arguable. In the circumstances, the appeal fell to be allowed, the decision of the FtT set aside, and the appeal remitted to the FtT to be heard 'de nova'.

Discussion

23. Some of the appellant's grounds of appeal are simply misconceived, others require rather fuller analysis. Grounds one and two fall into the former category.

24. By ground one, it is submitted that the judge somehow approached the case with a closed mind. I see no proper basis for that serious allegation. It is not based on anything said or done by the judge during the hearing (contrast Dorman v Clinton [2019] EWHC 2988 (QB)) but, seemingly, on the judge's comment in his decision that there was 'limited' further evidence adduced by the appellant after Judge Graham's decision. That was the judge expressing his analysis of the evidence in a reserved decision; it provides no indication of a closed judicial mind. Also within this ground, it is submitted that the judge gave no reasons for rejecting the appellant's shenasnameh. That is simply wrong; the judge gave a very clear reason for rejecting this document. He did not accept that a document which was purportedly issued in 1983 would bear a recent photo of the appellant.

25. By ground two, it is submitted that the judge should have given the appellant the benefit of the doubt in respect of the Facebook postings. With respect to the appellant's solicitors, I am not sure that I even understand this ground of appeal. The judge was circumspect about attaching weight to the appellant's Facebook postings because he was conscious that they could be manipulated to present a misleading account of what had been published online. The appellant is a man who had been found incredible by Judge Graham, and who (on the judge's findings) had presented a shenasnameh to which weight could not properly be attached. I cannot understand why it is said that he should have been afforded the benefit of the doubt in respect of the Facebook postings. As a senior division of the Upper Tribunal held in KS (benefit of the doubt) [2014] UKUT 552 (IAC), that principle adds nothing of substance to the lower standard of proof. And I cannot understand why paragraph [4] of the grounds of appeal cites WM (DRC) [2006] EWCA Civ 1495, which obviously relates not to the substantive determination of protection appeals but to the consideration of whether further submissions might amount to a fresh claim. This ground fails to establish any error on the part of the judge.

26. Ground three requires rather more detailed analysis. It was this ground, to my mind, which prompted Judge Saffer to grant permission to appeal on the basis that 'inadequate and unclear reasons have been given for rejecting a report prepared by someone claiming to be an expert'. Ms Jones was wrong, however, to conclude that the focus of Judge Saffer's remarks was the judge's treatment of the short letter from the appellant's GP; he evidently had in mind the judge's consideration of the report from Mrs Saatnia.

27. The appellant's nationality has been at the centre of this case since the appellant claimed asylum. He was thought by Sprakab to be an Iraqi national. The respondent adopted that view and Judge Graham found for the respondent in that respect. When the appellant came to make further submissions, he supported his claim to be an Iranian national by submitting to the respondent a copy of a shenasnameh with a certified translation. This document was said to have been issued by the Baneh Civil Status Registry on 17 October 1983. It gave the appellant's details and those of his mother and father. It contained a finger (or thumb) print and a photograph of the appellant was stapled to the original. The appellant stated that this copied version of the shenasnameh had been sent to him from Iran through the Viber mobile phone app. The respondent declined to attach weight to the document on account of the fact that it was only a copy. The copied document and the translation appeared at Annex D of the respondent's bundle.

28. The appellant made reference to the shenasnameh in his witness statement before the FtT. He said that he 'had an expert report who considered my birth certificate and confirmed it is original': [3]. He stated that he had not had the original birth certificate at the time that he made further submissions but that he would 'provide an expert report to show that the Birth Certificate has been considered and it is original'. The statement was signed on 13 January 2020.

29. The expert report to which the appellant's statement referred was seemingly that of Mrs Saatnia, which was sent to the appellant's solicitors on 14 January. Mrs Saatnia described herself as being of dual Iranian /British nationality and being a qualified solicitor in Iran and a member of Iranian ICBAR. She stated that she was a member of the UK Electronic Immigration Network and the 'international bar association with the reference number 1412994'. She stated that she had fourteen years' experience 'within various sections of the Judiciary in Iran' and that she had degrees at Bachelor's and Master's level from Iranian universities. She had previous experience, she said, of acting as an expert witness 'in connection with legal matters related to the Iranian legal system.' She stated that she was

familiar with legal documentation from Iran as a result of her work as a solicitor there, practising in various fields. She also stated, without elaboration, that she was 'acting as a Legal Consultant for the Iranian asylum seekers in the UK from 2016 until present with law offices'. Her report is printed on company headed paper for a firm called PIMI Ltd, which describes itself as 'The Law Firm UK', both in its logo and the printed 'watermark' on the paper.

30. Mrs Saatnia stated that she had been instructed 'to provide an expert report' on the appellant's Iranian birth certificate. Her instructions were not set out with any greater degree of particularity. Having set out her qualifications, she stated that she had seen the original document and that:

> "This birth certificate contains all required details such as the serial numbering, national ID number, issuance place and dates, parent's details and relevant state registry of civil status districts area to the birth certificate."

31. She then recounted what was entered on the document, before setting out Articles 12 and 13 of the Birth Registration of the Law on Registration in Iran. Under the sub-heading 'Conclusion' on the sixth page of the report, Mrs Saatnia stated as follows:

> "I believe that I am qualified for making comments on the Iranian Legal documents and also on the legal situation of the asylum seekers if they return to Iran.
>
> The Home Office, for the above fact and reasons, should believe that my expert report is valid and I am in a position to be qualified to provide assessment on the documents that have recently been issued by the Judiciary Authorities in Iran.
>
> I confirm that I have done the actual checks to verify that the documents have genuinely been issued by the Islamic republic of Iran Ministry of interior state registrar of civils status under the Chapter Three – Birth Registration of the Law on Registration in point of my view this is genuine and correct."

32. Appended to Mrs Saatnia's report were pages of academic transcripts, both in Farsi and translated into English, as evidence of her qualifications.

33. The Presenting Officer before the judge seemingly submitted that Mrs Saatnia's report was not deserving of weight because she was not 'approved by BAILII': [5]. I do understand the basis on which that submission came to be made. Bailii does not 'approve' experts, nor does it have a directory of expert witnesses such as that retained by the Electronic Immigration

Network; that is not its stated function and the respondent's advocates should have been aware of that. The judge did not waste time on this submission, sensibly preferring to focus on what he considered to be the real issue with the shenasnameh.

34. At [7], the judge explained why he did not consider Mrs Saatnia to be an 'expert whose views are conclusive'. He went on to state that he had concluded that the document was not valid because he was not satisfied about its provenance and the fact that it contained a recent photograph of the appellant.

35. Whilst the judge's reasoning was compressed, I do not consider it to have been legally inadequate. He had noted what had been said by Mrs Saatnia but he was not satisfied that the document was one to which weight could properly be attached. His conclusions in that regard must be understood in context. Mrs Saatnia's report confirmed that the document contained all of the information which was to be expected but her opinion on its form went no further than that. She did not confirm, for example, that the paper used in the shenasnameh was of the type expected; that the wet ink stamps had not been printed by an inkjet printer; or that the embedded security features of the document were in line with those used in 1983. In this respect, therefore, her report really did not take matters very far indeed. By way of comparison, an expert report which stated that a British passport contained a person's name, date and place of birth would be of little assistance to a judge in determining whether that document was deserving of weight. A report which stated that the holographic security features were in keeping with the date of issue and that the laminate on the biodata page was wholly intact, on the other hand, might be thought to be of obvious significance.

36. Mrs Saatnia's report also seemed to confirm, however, that she had 'done the actual checks' to verify that the document had been validly issued. In this respect, her report was wholly lacking. She did not state what 'actual checks' had been performed, nor did she confirm the results of those checks. She simply stated that 'in point of my view this is genuine and correct'. With respect to Mrs Saatnia, this part of her report is wholly unclear. If she meant to state that she had been in touch with the Iranian authorities and that it had been confirmed to her that this was a genuine document, she failed to state the method of her enquiry or give any clear indication of the results of that enquiry. This part of her report was not properly capable, in my judgment, of bearing any weight whatsoever.

37. For these reasons, Mrs Saatnia's report did not take matters very far at all for the appellant. At the most, it confirmed that the document contained what she would expect it to contain. I doubt

whether this was an instance in which a judge of the First-tier Tribunal was required to articulate a good reason for rejecting the view expressed by an expert, such as the situation considered in Miao v SSHD [2006] EWCA Civ 75; [2006] Imm AR 379, for example. Even if it was such a situation, however, I consider that the judge was entitled to take the view he did for the reasons that he gave. The document was surprising on its face, and Mrs Saatnia did not address the obvious oddity that the document was purportedly issued in the year of the appellant's birth but it bore a photograph of him as a man. The judge was concerned about that, and he was concerned to understand how the document had been obtained. In the absence of a satisfactory answer to either question, the judge concluded that the document was unreliable. His reasons were clear and logical, therefore, and his overall approach was in accordance with Tanveer Ahmed [2002] UKIAT 00439, [2002] Imm AR 318. I do not consider ground three to disclose a legal error on the part of the judge.

38. Ground four is unmeritorious, contending as it does that the judge failed to make any findings in relation to the appellant's claim. He plainly did make relevant findings, including his conclusion that the appellant had failed to adduce any adequate evidence to persuade him to depart from Judge Graham's central conclusion that the appellant was not an Iranian national.

39. Ground five contends that the judge erred in law in his consideration of internal relocation but this is to misunderstand the judge's conclusions. He concluded that the appellant is an Iraqi national who can return to his family in the IKR. That does no involve internal relocation; it involves a return to the appellant's home area, in which he was considered by the judge not to be at risk. The judge was not required to consider or apply Januzi [2006] UKHL 15; [2006] 2 AC 426 or AH (Sudan) [2007] UKHL 49; [2008] 1 AC 678, and would have been in error if he had done so.

40. By ground six, it is contended that the judge failed to consider or apply the country guidance in SMO (Iraq) when considering the ability of the appellant to return to the IKR. That complaint is correct but is not capable of establishing in the decision of the judge an error of law which justifies its setting aside. There are two reasons that I reach that conclusion. The first is that, on the findings of the judge, the appellant could safely return to his family in the IKR. Despite the well-known economic hardship in that area, the appellant has a pre-existing support network to which he could return, and would not therefore be at risk of encountering very significant obstacles to integration or other hardship which would be contrary to the ECHR.

41. Secondly, insofar as this ground relies on the difficulties which the appellant might encounter because he does not have a Civil Status Identity Document (CSID), it is again important to understand the judge's conclusions in their proper context. Like Judge Graham, the judge concluded that the appellant's family could assist him upon his return to Iraq. It is to be recalled that the judge was presented not with an appellant who claimed to be an Iraqi who would encounter difficulties on return to that country due to the absence of an identity document; he was presented with an appellant who claimed to be an Iranian, and did not advance a primary or alternative argument about difficulties upon return to Iraq. The appellant advanced no reason, in other words, for the judge to depart from the prima facie valid starting point provided by Judge Graham's decision. I do not consider it to have been incumbent upon the judge to formulate and consider alternative arguments for the appellant.

42. In respect of ground seven, I consider that the judge's conclusions about the GP's letter were open to him, essentially for the reasons given in Ms Jones' written submissions. The letter was the only medical evidence before the judge. It was addressed 'To whom it may concern' and was dated 1 March 201. It was as follows:

> "I can confirm that I have recently reviewed Ako at the GP surgery, and he has been suffering with low mood, reduced appetite, poor sleep and lack of interest in doing things. He feels vulnerable, and his immigration status is contributing to his depressive symptoms. He tells me he has no family in the UK, and is having to rely upon his friends to provide basic support. He has recently been started on anti-depressant medication for his symptoms, and I have advised ongoing review at the GP surgery. Please can you take this into consideration when reviewing his case."

43. A manuscript addition to the letter stated 'reviewed at GP surgery 14/1/2020 – ongoing meds / review advised'. That updated letter was sent to the FtT as part of a supplementary bundle on 17 January 2020.

44. It is trite that the more a diagnosis is dependent on assuming that the account given by the appellant is to be believed, the less likely it is that significant weight will be attached to it: JL (China) [2013] UKUT 145 (IAC), applying HH (Ethiopia) [2007] EWCA Civ 306. The judge was entitled to conclude that the opinion of the appellant's GP (that he was suffering from depression) was likely to be based on an acceptance of the symptoms described by the appellant himself. That letter demonstrated no clinical evaluation of the appellant's account and was, in reality, little more than a short letter issued by his GP at his request. It did

not purport to be expert evidence. It did not comply with the requirements of the Practice Statement.

45. The judge is also criticised for his observation that the appellant's condition could not be significant because 'greater treatment had not been considered necessary'. The judge was not required to be a medical expert in order to make such an observation, however, and it was open to him to conclude that the appellant would have been referred for treatment in addition to the unspecified anti-depressant medication in the event that he was suffering from a serious mental health problem.

46. Insofar as this ground also criticises the judge for failing to consider whether the appellant would be suspected of demonic possession in Iraq due to his mental health problems, I can see no reference to any such claim in the appellant's written or oral submissions before the FtT. There is certainly no background material in the appellant's bundle which would begin to support such an assertion.

47. In the circumstances, the appellant's appeal shall be dismissed.

Notice of Decision

The appellant's appeal to the Upper Tribunal is dismissed. The decision of the FtT shall stand.

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.

M.J.Blundell

Judge of the Upper Tribunal
Immigration and Asylum Chamber

3 August 2020