



IAC-FH-CK-V1

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

Appeal Number: PA/01453/2019

THE IMMIGRATION ACTS

**Heard at Field House
On 21st May 2021**

**Decision & Reasons Promulgated
On 16th June 2021**

Before

UPPER TRIBUNAL JUDGE FRANCES

Between

**FARHAD ABDULLAH SALIH
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms K Reid, instructed by J D Spicer Zeb Solicitors

For the Respondent: Mr E Tufan, Home Office Presenting Officer

DECISION AND REASONS

1. The Appellant is a citizen of Iraq born on 1 January 1994. He appeals against the refusal of his protection claim on asylum, humanitarian protection and human rights grounds. The Appellant's appeal was allowed by First-tier Tribunal Judge James in a decision promulgated on 9 May 2019. This decision was set aside by Upper Tribunal Judge Hanson for the reasons given in his decision promulgated on 30 July 2019. The matter came before me for rehearing. None of the First-tier Judge's findings of fact were preserved save for the Appellant's nationality and immigration history.

2. In about June 2017, the Appellant left Iraq and went to Turkey by car where he remained for a month. He then travelled to Greece by boat where he was detained and fingerprinted on 27 July 2017. He remained in Greece for ten to eleven months before travelling to Italy by boat. He remained in Italy for three to four days, and was fingerprinted on 6 April 2018, before travelling by car to France. He stayed in France for four months before travelling to the UK where he claimed asylum on 9 August 2018. It is the Appellant's claim that he would be persecuted on return to Iraq because his father worked for Saddam Hussein's regime and there was a family feud between his family and the Hussain family.
3. In his witness statement dated 25 January 2019, the Appellant recounts the harassment he experienced after the fall of Saddam Hussein's regime until ISIS invaded. The Iraqi forces and the Kurdish Peshmergas fought to defeat ISIS and made them leave the area. The Appellant stated, "However, as a result it caused problems between the Iraqi government and the Kurdish fighters. The Arab forces, especially the Shias were trying their best to prevent us from carrying on with day-to-day things such as go (sic) to mosque as we were Sunnis." The Appellant's movements were restricted and he was unable to continue his studies.
4. On 28 July 2016, the Appellant's father was attacked and killed returning from the mosque after morning prayer. He and two other men were shot by armed men and four others were injured. A month later the Appellant and his family were evicted from Tuz and went to stay with a friend in another village. When they returned home, the verbal and physical abuse continued. The Appellant's brother was beaten and their family home was raided. In December 2016, his brother was kidnapped and the Appellant went with his mother to his uncle's who helped him leave the country with the assistance of an agent.
5. In his statement dated 5 March 2019, the Appellant made comments on the Secretary of State's Reasons for Refusal Letter. In summary, he stated the Hussain family were members of the Hezbollah Party who had connections with the PMF and they were taking revenge on his family. This was not based on one thing, but on an accumulation of many issues. These issues included his ethnicity, his religion (Kurdish Sunni Muslim) and the fact that his father was associated with Saddam Hussein. It was not just his family they targeted, but all Kurdish Sunni families in the area were harassed by the Shia community. The Appellant's father was killed and his brother was kidnapped. The Appellant was beaten up on many occasions and his house was burnt down. The family were forced to temporarily leave their home and home area. The Appellant believed his family were specifically targeted and terrorised as a result of all of these issues.
6. The Appellant gave oral evidence, relying on his witness statements as evidence in chief. In cross-examination, the Appellant stated that there was a feud between his family and the Hussain family. It related to his father. It was because they were Sunni Muslims and the Hussain family

were Shia and because the Appellant's father worked with the Saddam Hussein regime. It had been said that his father reported some member of the Hussain family to the regime and due to that one of them had disappeared. Mr Tufan asked the Appellant why he had not mentioned this earlier. The Appellant did not understand the question and it was put again. He then said that he had mentioned this. Mr Tufan noted there was nothing in the interview at question 27 in relation to this.

7. Mr Tufan asked what the Appellant's father did. The Appellant said he did not know at the time because he was young. He stated he did ask his father when he grew up but his father did not answer. He asked his mother. She did not go into detail but she said this problem had gone on for ages since Saddam Hussein was in power. The Appellant did not know where his brother was. He accepted that his maternal uncle had provided funds for him to travel to the UK but stated he was not in contact with him now. Mr Tufan asked the Appellant why his uncle had not contacted him. The Appellant replied, "Since 16 October I have not contacted him." He was asked if he was in the UK the last time he contacted his uncle. He said he was in Greece and he had not contacted his uncle because at that time he was in a closed camp and the Shia militia attacked Tuz. He stayed in the closed camp in Greece for eight months. He said he did not have a passport.
8. Mr Tufan confirmed that there was no evidence that a passport had been taken by the Greek authorities. It was pointed out that the Appellant's evidence in his asylum interview was that he did not have a passport. The reference in the screening interview was to his CSID, not a passport. The Appellant was asked about his CSID. He said, "It fell into the sea when I was on my way. The boat I was on was about to overturn. It was unsettled and all the belongings in my bag and my personal bag went into the sea." The Appellant did not go to the Iraqi Embassy to get a replacement because he did not have any documents with him to confirm his identity.
9. Mr Tufan as asked if the Appellant had ever tried to contact his family through the Red Cross and he replied, "I went down to their office and provided all details. After that there was the pandemic and I contacted them and they contacted me and finally they said they were not able to assist me." He was asked if he had any evidence to confirm this. He said: "If I knew that you would ask this question I would prepare myself and bring some proof that I contacted them. Whilst in a different town I provided my address and I had their address with me and the telephone number."
10. The Appellant said that his family and uncle's family are both in Tuz, but he did not have any other family elsewhere in Iraq. He was asked if he studied until he was 15 years old. He said: "I was in education for six years so I don't know what was the outcome." He confirmed that he was educated in both Kurdish and Arabic. He was asked if there was any reason why he could not live in Baghdad and he said: "Yes, I am a Sunni Kurd and the family we had a dispute with are Shia. My dad used to work

with the Ba'ath Party." He was asked why he cannot live in the IKR. He replied: "My father was on a list of wanted people in the Kurdish region because he was a member of the Ba'ath Party and we live in a disputed area. We try to keep separate and as we are."

11. In response to questions from me, the Appellant said that ISIS had weak control in his home area and it has been overtaken by Shia Muslims. The village he lived in was attacked on 15 or 16 October 2017. As far as he was aware his mother and uncle were living there. He did not know what had happened to them because he was in the closed camp in Greece. He did not have contact with them after that date. He knew that the village had been attacked because some 'detainees' had mobile phones and they could access the internet. He knew through the news. I asked if he had a CSID to travel out of Iraq. He said, "Actually, through all my journey it was through smuggling illegally." He did not use his CSID. I asked why he brought it with him. He said, "because it was already in my pocket when I fled and my mobile phone was not with me."
12. In re-examination, Ms Reid asked why he had failed to mention that a member of the Hussain family had disappeared in his asylum interview. Question 115 and the answer was read out him and he was asked, "how have you come to know the reason now when you did not know it in the asylum interview?" The Appellant replied, "Even in the asylum interview I knew the reason and I did not reveal the truth at that time because I was embarrassed about what my father did. I thought if I revealed that information I would get into trouble in this country and I would be accused as part of that action. After that I realised that this is a different country and there are human rights here."
13. The Appellant was then asked about whether he had made attempts to contact his family other than approaching the Red Cross. He said he had contacted his old boss, but he did not help him. The Appellant stated his old boss was unable to help and blocked his number. This was about a year ago. He was asked if there was any reason why he waited so long to contact his former employer, given he had had no contact with his family since 2017. He said: "At that time I was in prison and in control of the smuggler and there was nothing like the Red Cross to trace my family in Greece." He was asked why he did not contact his former employer soon after he entered the UK on 9 August 2018. He said, "Because at that time he blocked my number, no, it was before that, because of my journey to this country, it was quite tough, my mental condition was not stable and as a result I was depressed and anxious and during sometime I lost my memory as well. At time I arrive at this country not know this country was systematic and everything is managed and run by law. After that people advise me about such organisations as the Red Cross." He was asked if he used the Red Cross to contact his former employer and he replied: "Actually, I provide my maternal uncle details to the Red Cross and family details but not to my former employer. Even myself I did not trust my boss that much. I was worried he might pass my details to that family."

14. Mr Tufan requested permission to cross-examine the Appellant on the evidence which had been revealed during re-examination. Ms Reid did not oppose his application, given that the matters raised had not been mentioned in the documentation and were not something that Mr Tufan could have been aware of. Mr Tufan asked the Appellant if he had contacted his former employer by phone and whether he could remember the phone number. He said no, he had obtained the phone number through Facebook. He contacted his former employer by voice message, effectively the same as a telephone, he talked to him verbally over the phone and not in writing because he was concerned that if his views were in writing his former employer would pass that to the same family. After contacting his former boss he deleted his Facebook account immediately as he was concerned his boss might pass on details or the Hussain family might pay his boss for information or they might be able to find his whereabouts. He was asked why he had not contacted his uncle by telephone or Facebook and he replied he did not know his whereabouts and when he was living in Iraq with his uncle he did not have a smartphone. There was no further re-examination.

Respondent's Submissions

15. Mr Tufan submitted there were three issues; credibility, the CSID and the situation in Iraq. In relation to credibility he submitted the Appellant's account was not credible. The Appellant had embellished his account today and disclosed matters not previously disclosed in interview or in his statements. The Appellant stated that it was suspected his father reported one of the Hussain family members who then disappeared and his father was deemed accountable. Mr Tufan submitted that it was incredible that this important issue was not mentioned before and I should attach no weight to the Appellant's explanation that he was too embarrassed to mention it in interview.
16. Mr Tufan submitted that another perplexing feature of the Appellant's account was that he did not know what his father did when he was working for the government. His answers were unsatisfactory and the only plausible explanation was that his father did not work for the government. The Appellant also raised another new issue in oral evidence, stating that his father was on a wanted list. This was inconsistent with what he said in interview, at question 22, when he stated his father helped the Peshmerga forces, who were Kurdish forces loyal to the PKK. It was perplexing he would be on a wanted list if this was the case. The Appellant was not telling the truth and was not credible.
17. In relation to documentation, the Appellant did have an identity document, a CSID, and his explanation for losing it on a boat was not plausible. Since the Appellant was not credible on any other issues it was not credible that he was unable to remember the details of his CSID. In any event, he could get details from family members although he stated he had no contact

with them. Little weight should be attached to this evidence, given that assessing his credibility in the round, the Appellant was not credible.

18. Mr Tufan submitted the Appellant initially stated he had contacted his former employer by Facebook, but then changed his account to say he had contacted him by telephone. The Appellant's account progressively changed and was not credible. The Appellant would be able to contact his family and get their details to obtain a CSID. He was now saying he had contacted the Red Cross and they did not help. There was no evidence apart from his word, but he was totally lacking in credibility.
19. The Appellant had not tried to obtain a new CSID from the Iraqi Embassy and there was nothing to suggest that he had provided his details and they would not help him. The Appellant can obtain a CSID and can return safely to his own home area. Mr Tufan confirmed that forced returns were to Baghdad, but voluntary returns did occur to the IKR. The Appellant would be safe in his home area as there were only isolated areas where Article 15(c) of the Qualification Directive was engaged. The Appellant was educated in Arabic and having obtained a CSID he could relocate to Baghdad. His voluntary return package would be enough for him to start up. Looking at the headnote of SMO (Article 15(c); identity documents) Iraq CG [2019] UKUT 400 (IAC), at paragraph 21 onwards, the Appellant could relocate within the IKR. He would not be refused entry and, in any event, the conditions in which he would have to live were not sufficient to reach the Article 3 threshold.

Appellant's Submissions

20. Ms Reid relied on her skeleton argument, dated 21 May 2021, and the Appellant's witness statement dated 5 March 2019. It was perfectly plausible the Appellant had lost his CSID at sea and it was perfectly plausible that his father chose not to tell him about his job with the government. It was clear that his father was someone who would attract interest and the Appellant's answer to question 22 of the asylum interview did not undermine his contention that his father was a person of interest. The Appellant had given a reasonable explanation for failing to mention that his father had informed on a member of the Hussain family. The Appellant's account was consistent. He had just given more detail. His account was credible throughout. The Appellant's failure to contact his former employer until last year did not undermine his credibility on the basis of the timing of that contact.
21. In relation to documentation, Ms Reid submitted that if the Appellant's credibility was accepted, then he had no contact with his family. The Appellant would need his family to find the page number and book number in order to be able to obtain a CSID. The difficulty was that the patrilineal line ended with his father. The move to an ID card and the use of a proxy would make it more difficult. Even if the Appellant was able to contact his family, there would still be difficulties. Ms Reid relied on the COIR June

2020 at paragraph 8.1, in which the position was that the Appellant would have to obtain security clearance, sponsorship from a local resident and numerous other documents including a letter from the Mukhtar from where he previously resided in order to be able to live in Baghdad. Given the volume of documents he had to obtain, Baghdad was not an option. The Appellant would not be able to relocate to the IKR from Baghdad because he could not travel there safely.

22. Ms Reid accepted that, although the Appellant's home region was a disputed region, he would not be at risk of Article 15(c)/indiscriminate violence. She accepted the Appellant's claim was dependant on his credibility. If I found he was not credible, his claim was likely to fail unless I concluded that he had lost contact with his family. She had nothing further to say in relation to the Respondent's submissions dated February 2019. Ms Reid was given the opportunity to consult with the Appellant at the end of the hearing and she had nothing further to add.

Conclusions and Reasons

23. The burden is on the Appellant to show that there is a reasonable degree of likelihood that he has a well-founded fear of persecution or real risk of serious harm on return to Iraq. It is accepted that if the Appellant is found not credible his protection and human rights claims will fail.
24. I do not find the Appellant to be a credible witness because he has given inconsistent accounts in his interview, in his witness statements and in his oral evidence. He has embellished his evidence and his failure to mention important details in his witness statements further undermines the credibility of his claim.
25. I find the following inconsistencies are significant and they undermine the Appellant's credibility. In his asylum interview on 28 January 2018, the Appellant stated his father was killed on 8 August 2016. In his witness statement dated 25 January 2019, he stated his father was killed on 28 July 2016. In his asylum interview, the Appellant was asked what happened on the day that made him leave Iraq. He stated the Hussain family threatened to detain and kill him and he called his uncle. The Appellant made no mention of this threat in either of his witness statements. In his witness statement, the Appellant stated he was extremely scared after his brother was kidnapped in about December 2016. He took his mother and went to live with his uncle because 'they' do not harass older men and his mother would be safe there.
26. The Appellant disclosed in cross-examination that his father informed on a member of the Hussain family who then disappeared. In his asylum interview, he stated his father did not tell him what caused the feud (question 121). The Appellant denied he had not mentioned this before. It is incredible that this information was not recorded in either of his witness statements if he had disclosed it either in interview or to his solicitors. In

re-examination, he stated that he was afraid to mention this information in interview because he was embarrassed. There was no plausible explanation for why he failed to mention this important fact in his witness statements.

27. The Appellant disclosed in cross-examination that his father was on a wanted list. This was inconsistent with his claim in interview that his father assisted the Peshmerga forces. There was no plausible explanation for his failure to mention this in his witness statements.
28. The Appellant disclosed in re-examination that he had contacted his former employer to help him trace his family. There was no plausible explanation for his failure to mention this before the hearing. The Appellant's evidence on this issue was confusing. He stated that his employer blocked his calls and was unable to help him. He then stated that he was reluctant to give details to his former employer.
29. The Appellant's evidence of his attempts to contact his family was vague and unsupported by evidence which he ought to have been able to produce if his account was true. There was no evidence from the Red Cross. His claim to have lost contact with his mother and uncle in October 2017 was vague and unsubstantiated. He claimed to have heard about the attack on his village in the news on the internet. There was insufficient evidence to show that Appellant had made reasonable efforts to contact his family and was unable to do so.
30. The Appellant's credibility is further undermined by his failure claim asylum in Greece or Italy. The Appellant came into contact with the authorities and was fingerprinted. There was no plausible explanation for his failure to make a claim before his arrival in the UK. His claim to have been under the control of people smugglers is undermined by his claim that he left Iraq with his CSID in his pocket.
31. The Appellant's account in interview and in his statements was insufficient to show a reasonable degree of likelihood that the Appellant was at risk of persecution on return to Iraq applying relevant country guidance. He has embellished his account in oral evidence in order to bolster his weak asylum claim. The Appellant may well have suffered harassment from ISIS and the Arab forces prior to 2016. His evidence in interview was that he was still able to work at this time. I find the Appellant was not at risk of persecution prior to leaving Iraq.
32. For the reasons given above, I do not find the Appellant's claim to be credible and I reject it in its entirety. I do not accept he has lost his CSID or that he has lost contact with his family in Iraq. It is accepted the Appellant will not be at risk of indiscriminate violence pursuant to Article 15 (c) on return to his home area. I reject the Appellant's claim to be at risk of harm from the Hussain family because I do not find his account credible. Applying SMO, the Appellant would not be at risk on return to Baghdad or the IKR.

33. Accordingly, I find that the Appellant is not at risk of persecution, serious harm or treatment in breach of Article 3 on return to Iraq. I dismiss his appeal.

Notice of Decision

The appeal is dismissed

No anonymity direction is made.

J Frances

Signed
Upper Tribunal Judge Frances

Date: 4 June 2021

TO THE RESPONDENT
FEE AWARD

I have dismissed the appeal and therefore there can be no fee award.

J Frances

Signed
Upper Tribunal Judge Frances

Date: 4 June 2021