



**Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: PA/02485/2020**

THE IMMIGRATION ACTS

**Heard at Manchester Via Teams
On 2 September 2021**

**Decision & Reasons
Promulgated
On the 28 October 2021**

Before

UPPER TRIBUNAL JUDGE LANE

Between

**AMA
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Mohzam

For the Respondent: Mr McVeety, Senior Presenting Officer

DECISION AND REASONS

1. The appellant is a male citizen of Iraq who was born in May 1984. He appealed to the First-tier Tribunal against a decision of the Secretary of State dated 29 February 2020 refusing his claim for international protection. The First-tier Tribunal, in a decision promulgated on 16 March 2021, dismissed his appeal. The appellant now appeals, with permission, to the Upper Tribunal.
2. The grounds of appeal focus solely on the ability of the appellant, an Iraqi Kurd, to acquire the identity documentation required to live in Iraq, that is a CSID or INID. The appellant argues that, at [60], the judge wrongly found

that the appellant could ask his sister to obtain a replacement identity document for him, thereby ignoring the requirement for biometric data which only the appellant could provide in person (see *SMO, KSP and IM (Article 15(c); identity documents) Iraq CG [2019] UKUT 400* at [14]). Further, the appellant argues that the judge made no clear finding as to whether a replacement card would, if it could be obtained at all in Iraq, would be available within a reasonable time.

3. The problem for the appellant is that the grounds overlook entirely a significant part of the First-tier Tribunal's decision. The findings at [60] which the appellant challenges were, significantly, made in the alternative; the Tribunal's primary finding appears at [56]:

The gist of the appellant's account is that the CSID was last seen with his father. Alternatively, the agent took the document off his father. Either way, the documents (sic) are no longer accessible. Having rejected the appellant's credibility and the truthfulness of his claim, I am not satisfied the appellant cannot gain access to his CSID or that his family are not in possession of his CSID.

Paragraph [58] then begins with the words '*Even if I am wrong...*' [my emphasis]. It is the findings which follow those words which the appellant has challenged on appeal; his grounds make no mention of the judge's primary finding that the appellant's family in Iraq are in possession of his CSID. There is, therefore, a unchallenged finding of the Tribunal that the appellant's account of having given his documents to an agent was unreliable. It would have been helpful if the judge had gone on to discuss the means by which the CSID could be delivered to the appellant in the United Kingdom and before he departs for Iraq but I accept the submission of Mr McVeety, who appeared at the initial hearing for the Secretary of State, that it should be a simple matter for the appellant's family members in possession of the CSID to send it by post to the appellant at his home in Stoke on Trent. In my opinion, the absence of any specific finding to that effect by the First-tier Tribunal does not vitiate its decision. So far as this appeal to the Upper Tribunal is concerned, the judge's unchallenged primary finding at [56] means that it cannot succeed whatever may be the failings of the judge's alternative 'solution' to identity document problem at [60].

4. At the initial hearing, both representatives acknowledged that the judge was wrong at [47] to find that 'given the appellant is from the IKR, returns will be to the IKR.' Mr McVeety was content for me to consider that finding even though it has not been challenged in the grounds of appeal.
5. Both parties agree that, at the date of the promulgation of the First-tier Tribunal's decision, all forced returns to Iraq continued to be made to Baghdad. However, given that the appellant will return to Iraq in possession of a valid CSID sent to him by his family, he will not be exposed to real risk in Baghdad whilst he prepares for his onward journey to his home area, the IKR. The judge's error, therefore, is immaterial.

6. For the reasons I have given, the appeal is dismissed.

Notice of Decision

This appeal is dismissed.

Signed
October 2021
Upper Tribunal Judge Lane

Date 5

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.