



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

Appeal Number: UI-2021-000636
(PA/51200/2020); IA/00670/2020

THE IMMIGRATION ACTS

**Heard at Birmingham CJC
On 11th August 2022**

**Decision & Reasons Promulgated
On 27th September 2022**

Before

UPPER TRIBUNAL JUDGE MANDALIA

Between

**ANS
(Anonymity Direction Made)**

Appellants

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms A Bachu, instructed by Freedom Solicitors

For the Respondent: Mr C Williams, Senior Home Office Presenting Officer

DECISION AND REASONS

Anonymity

An anonymity direction was made by the First-tier Tribunal. The appeal before me arises from a claim for international protection and it is appropriate for an anonymity direction to be made by me. 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 his family. This direction applies amongst others to all parties. Failure to comply with this direction could lead to contempt of court proceedings.

1. The appellant has been granted permission to appeal the decision of First-tier Tribunal Judge Thapar dated 14th May 2021. Before I turn to the appeal before me, it is useful to set out the relevant history and background.
2. The appellant is a national of Iraq, from Makhmur, a disputed territory, and of Kurdish ethnicity. He claims to have arrived in the United Kingdom on 10th October 2015 and he claimed asylum that day. His claim was refused by the respondent for reasons set out in a decision dated 18th March 2016. The appellant's appeal against that decision was dismissed for reasons set out in the decision of First-tier Tribunal Judge S D Lloyd promulgated on 31st March 2017.
3. The claim for international protection made by the appellant at the time is summarised in paragraph [6] of the decision of First-tier Tribunal Judge Lloyd as follows:

“The Appellant was either engaged, or married (see below), to a woman called Munira on 18 March 2015. The final step in becoming married was due to take place in July 2015. However, on 3 July 2015 his parents were killed in a car crash. Sometime after that Munira's family approached the appellant and told him they wanted them to divorce, and that another man had been found for her. They threatened to kill him if he did not separate from her. They returned one week later with guns and warned him that she did not (*sic*) separate they would kill him. After that, the appellant went to his uncle's house where he stayed one night, following which he began his journey out of the country. He says that he could not return to Iraq due to fear from Munira's family, that included Mustafa who was an ordinary member of the Peshmerga, and a cousin Zaito, who was said to be a colonel in the Peshmerga. He also claimed that the family wanted the property which he had inherited from his parents”

4. First-tier Tribunal Judge Lloyd rejected at the core of the appellant's account and did not accept that the appellant was threatened as he claimed. The appellant made further submissions to the respondent under cover of a letter dated 27th March 2019. In support of the appellant's claim, the appellant provided a number of documents, including a copy of his identity document showing his marriage to Munira, his parents' death certificates, photographs of his wedding, a letter from his uncle, and two copy arrest warrants dated 18 July 2015 for

his father-in-law and brother-in-law for threatening to kill him. The appellant's claim was again refused by the respondent. The appellant lodged an appeal that was dismissed for reasons set out in the decision of First-tier Tribunal Judge Grimmett ("Judge Grimmett") promulgated on 19th September 2019. Judge Grimmett considered the evidence before her, and at paragraph [16] of her decision, she said she did not believe the appellant has ever been threatened by his fiancée's family as claimed. At paragraphs [19] and [20] she said:

"19. Because of the inconsistencies I do not believe the appellant is telling the truth about his reasons for leaving Iraq. I am satisfied that his family remain there and that he can return to them without fear of harm from any member of his fiancée's family on return.

20. It was also said he could not safely live in Makhmour as a Kurd but he has lived there all his life and has not suggested that he has come to any harm on account of his ethnicity. His immediate family remain there and he can return to his home as I do not accept he will be at risk because of his engagement."

5. On 18th June 2020, the appellant made further submissions to the respondent in the form of a letter from Freedom Solicitors. The appellant's representatives said that the fresh claim for asylum is based on the appellant's expression of his political opinion against the Iraqi Kurdish leadership, exposing their corrupt practices and behaviour and against the influence and abuses committed by the Hashd Al Shabi (Shia Militias). They enclosed a statement made by the appellant dated 27th May 2020, in which he explained how he had become politically active in the UK. It is said that the appellant has used his Facebook account to express his political beliefs. The appellant's representatives claimed:

"... He has posted and revealed information which he states shows the corruption and nepotism which is rampant throughout the IKR along with the abuses being committed by the Iraqi government and the Iranian backed Shia Militia, Hashd Al Shabi. He has posted extensively on his Facebook account, sharing his own personal opinions as well as links to other sites and media. He has reported on stories of persecution of political critics and journalists because they dared speak out against the leaders. Our client has also posted about the Iraqi government and the influence of Iran in Iraqi politics. A print of our client's Facebook account is exhibited to his statement. You will see that his account and posts are set to public access. This allows his political opinions to be expressed throughout the global cyber community. Translations of selected posts on his Facebook account are exhibited to his statement and serve to illustrate the content comprising our

client's political opinions and the responses to him. You will see that that our client has posted extensively. There are many thousands of posts on his account which has been running for over a year. Translations of only a selection of posts can be feasibly provided but they serve to illustrate the highly inflammatory content of our client's Facebook account. Our client has received many comments on his posts which shows that his account is being regularly accessed and read. This is mostly by people in Iraq. Prints of the profiles of a selection of people commenting on his account are exhibit to his statement..."

6. The appellant's representatives submitted that as a result of the appellant's activities, he has received threatening and abusive messages on his Facebook Messenger. The appellant claims his uncle had been attacked, resulting in him being beaten unconscious and requiring hospital treatment. The appellant claimed that prior to the attack, his uncle had been warned by the police that the appellant's Facebook posts were upsetting a lot of people and so he should stop. Two weeks later his uncle was attacked. A copy of a medical report and the messages received were exhibited to the appellant's statement. It was said that the evidence relied upon makes clear to the appellant that he is known to the authorities because of his political activities, and he is at risk. It was claimed the appellant's uncle had moved from his home village and encouraged the appellant to continue with his activities as this was necessary to bring about a real change in the country.
7. The respondent refused the claim for international protection for reasons set out in a decision dated 1st July 2020. The appellant's appeal against that decision was dismissed by First-tier Tribunal Judge Thapar ("Judge Thapar") for reasons set out in her decision dated 14th May 2021.

The appeal before me

8. Permission to appeal was granted by First-tier Tribunal Judge Scott Baker on 9th November 2021. Judge Scott Baker rejected most of the criticisms made by the appellant, but said, at [7] and [8]:

"7. ... the judge at [31] found that the appellant could return to IKR whereas return will be to Baghdad, or possibly Erbil. It is therefore arguable

that insufficient consideration has been given to the issue of return and amounts to an error of law.

8. Permission is granted on the sole ground of return.”

9. The appellant’s representatives renewed the application for permission to appeal to rely upon three grounds of appeal set out in the ‘Grounds of Appeal’ dated 19th November 2021, to the Upper Tribunal. First, the appellant claimed Judge Thapar failed to make clear findings on whether the appellant is “genuinely politically active “. It is said that error is material because the Judge was bound to consider the future, not just the current risk. As a genuine political activist, the appellant can be expected to continue to disseminate his political views on return to Iraq which may place him at risk on return. Second, Judge Thapar erred in her consideration of the evidence regarding the appellant’s relationship with his uncle and her finding that the appellant has failed to demonstrate that he is related to Mr [BSA] as he claims. Judge Thapar suggested it would have been possible for the appellant to obtain a copy of his uncle’s identification document to demonstrate they are related. The appellant claims his uncle is related to him on his mother’s side and does not share the same surname or other familial information. The production of his identification would not have established any familial relationship. It was said there is no singular existing document which is capable of establishing the appellant’s relationship to his maternal uncle. Third, it is said Judge Thapar erred in finding the appellant will be able to obtain a replacement identification document from the London Embassy prior to return or that his family can assist him in obtaining appropriate documents within a reasonable period of return. The appellant claims this assessment of the position is incorrect in light of the findings in SMO and the current CPIN guidance (June 2020) on redocumentation, which confirms that due to the advent of the INID biometric Iraqi identity card, it is no longer possible to redocument anywhere other than the local CSA office of the applicant. The appellant claims this is significant because he comes from Makhmour which is a disputed territory outside of IKR and so he will be returned to Baghdad.

10. Permission to appeal was granted on ground 1 and 3 only by Upper Tribunal Judge Frances on 24th February 2022. Ground three relates to the availability of ID documentation and is, for all intents and purposes, linked closely to the ground upon which First-tier Tribunal Judge Scott-Baker had previously granted permission to appeal. The respondent has filed a rule 24 response dated 29th November 2021. The response addresses the sole ground upon which permission to appeal was granted by First-tier Tribunal Judge Scott Baker on 9th November 2021. The respondent stated:

“3. It will be argued that the judge has given adequate consideration to the appellant’s claim and given detailed and sustainable reasons for rejecting the appellant’s account which was open to them on the evidence presented. Given the judge had found that the appellant had previously produced his documentation and that he was in contact with his family, it will be argued that in light of the rejection of the appellant’s account that the appellant has access to his CSID.

4. Alternatively, as argued in the RFRL the appellant could obtain a CSID by proxy given the lack of evidence that his local civil status office has moved to the INID system. In any event, given the appellant has been accepted as a Kurd, if he chose to depart voluntarily there is nothing that would prevent him from entering the IKR as such there is nothing in the grounds to show that there is a material error in the judge’s conclusions given he could be met by family with the relevant ID card for onward travel to his home area or return if he arrived in the IKR.”

11. Before me, Ms Bachu adopted her skeleton argument dated 10th August 2022. She submits it was incumbent upon the judge to make clear findings on the issue of whether the appellant is genuinely politically active and holds the views claimed. She submits the judge failed to address the appellant’s evidence as set out in his witness statement dated 27th May 2020. The appellant said, at paragraphs [10] and [11], that he has previously spoken to his friends about his opinions. He states how he became involved in posting material on Facebook and at paragraph [12], he refers to the Facebook posts. Ms Bachu submits that if the evidence is rejected, the Judge does not provide reasons. Ms Bachu submits the focus of the judge was on the Facebook activity, but the Judge does not consider whether the appellant has genuinely held beliefs that he shares, or whether the sur place activity is opportunistic. Ms Bachu submits that at paragraph [14], Judge Thapar considered the

appellant's Facebook posts and said; *"In the main the Appellant has expressed views against the KPD and PUK from what can be seen."*. She submits that on the objective material that was before the Tribunal, a finding that the appellant had expressed genuine held beliefs opposing the KDP and PUK, applying the lower standard, would establish the appellant would be at risk upon return. At paragraph [19] of the appellant's skeleton argument dated 28th October 2020 that was before the First-tier Tribunal, the appellant's representatives drew attention to the CPIN of August 2017 relating to political opinion in the Kurdish region of Iraq, that highlights the categories of people who are likely to be at risk because of their political opinion and activities, namely, those who write about certain subjects, including corruption, the lack of human rights in the region, women's rights and anything that could be construed as endangering the security of the region or public morality and those critical (or perceived as critical) of prominent figures in the KDP or associated organs such as the Peshmarga. The appellant also relied upon 'The Gulf Centre for Human Rights report 'Iraq: and Iraqi Kurdistan: Targeting of activists and journalists continues.', dated 14th March 2019. Ms Bachu refers to paragraph [156] of the decision in SMO, KSP & IM (Article 15(c); identity documents) (CG) [2019] UKUT 00400 (IAC), in which the Tribunal recorded the evidence of Dr Fatah who explained that a Sunni Kurd would face as much additional risk as a Sunni Arab. His evidence was that after 2017, a Kurd might face more questioning in Iraq proper and particularly at checkpoints which were manned by Iraqi forces, who would want to establish whether he had any political affiliations or ties to the Peshmerga. She submits those that are perceived to oppose the regime, would be at risk upon return. Ms Bachu submits that there was additional background material, at page 123 of the appellant's bundle in which the Gulf Centre for Human Rights called upon the Iraqi government to take responsibility to protect all demonstrators, journalists, and human rights defenders. Ms Bachu submits further background material at pages 125 to 129 of the appellant's bundle was also relevant and established that activists and

journalists continue to be targeted in an effort to silence criticism of the regime.

12. Ms Bachu referred me to the appellant's Facebook posts and translations and submits the appellant has been putting posts on his Facebook account for a considerable length of time, and many of his posts have been 'liked' several times. She submits there was sufficient evidence before the First-tier Tribunal to establish that the appellant's conduct was akin to the position of a journalist.
13. As for the remaining ground upon which permission has been granted, Ms Bachu submits Judge Thapar erred in her finding, at [31], that the appellant will be able to return to the IKR via direct flight. She submits enforced removal of the appellant would, at that time, have been to Baghdad. Ms Bachu refers to paragraphs [60] of the Tribunal's decision in SMO, KSP & IM (Article 15(c); identity documents) (CG) [2019] UKUT 00400 (IAC) in which the Tribunal referred to the security situation in one specific part of Ninewa: Makhmour, which is part of the Disputed Territories and is administered by Ninewa, although Erbil lays claim to it. Ms Bachu submits the issue here is one of redocumentation. She submits the appellant cannot redocument himself from within the UK and Judge Thapar failed to consider and address the appellant's evidence that his uncle and family have now gone into hiding and he has no support network available to him either in Baghdad or the IKR. She submits the failure to make findings on how the appellant would be able to redocument himself if he had to travel by land through checkpoints from Baghdad, is a material omission.
14. In reply, Mr Williams accepts Judge Thapar does not explicitly say whether the appellant's sur place activities represent genuine held views or are opportunistic, but he submits, it can reasonably be inferred that the Judge concludes the sur place activities are not based upon a genuine political belief. He submits that at paragraph [17] the judge records that the appellant was questioned about where he obtained news regarding

the situation in Iraq. The appellant gave 'non-specific answers'. The judge said she would have expected that if the appellant were politically active as claimed, he would have been able to identify specifically his sources of information. Mr Williams submits that at paragraph [20] the judge considered the appellant's explanation as to why he did not mention his political activities previously. He submits the judge considered the evidence and said that the appellant has been inconsistent in his reasons. Mr Williams submits that at paragraph [26], the judge summarises her findings. She found the appellant's evidence in relation to core elements of his account to be inconsistent, implausible and incoherent and found that undermines the credibility of the appellant's claimed account and the veracity of his claim. The core of the appellant's account before the First-tier Tribunal was his political beliefs and his reliance upon the 'posts' on his Facebook account. Mr Williams submits that although not explicitly expressed in that way, the judge found the appellant's Facebook posts do not represent a genuinely held belief. In the circumstances, the Judge did not need to consider the matter further. It will be open to the appellant to delete his Facebook account prior to his return to Iraq. There will be no need for the appellant to lie about his political beliefs and views.

15. As far as return to Iraq and the identity documents available to the appellant are concerned, Mr Williams accepts Judge Thapar erred in saying, at [31], that the appellant will be able to return to the IKR via direct flight. Although the position has recently changed, at the time of the decision of the First-tier Tribunal, enforced removal would be via Baghdad. He submits that was an error of fact, but it is immaterial. The appellant has access to the required documentation to enable his safe passage from Baghdad to his home area. In the past, the appellant has produced a copy of his CSID. Although it is unclear where the original of the CSID is, all the evidence points to it being in Iraq with the appellant's family. Mr Williams submits that in paragraph 2 of the respondent's decision that led to the appeal before Judge Grimmett, the respondent referred to a list of documents provided by the appellant. The documents

the appellant claimed to have obtained from Iraq that were relied upon by him, included a certified copy of the appellant's CSID and ID card. It is therefore entirely logical to assume the originals of those documents remain in Iraq and there is no reason to believe the documents are anywhere other than with the appellant's family in Iraq. Judge Grimmet found at paragraph [20] of her decision that the appellant has family in Iraq. She rejected the appellant's claim that his family had died. The appellant has been able to obtain documents previously from Iraq and Judge Thapar found, at [31], that the appellant has failed to demonstrate that he would be unable to obtain a CSID or other relevant documentation. She made no differentiation as to whether that would be by obtaining a new CSID or the appellant having access to his existing CSID. Mr Williams submits the appellants' family could meet the appellant in Baghdad with his CSID. CSID cards are still being used as ID to get through checkpoints and the appellant can therefore travel from Baghdad to his home area.

Discussion

16. For all intents and purposes, there are two grounds of appeal. The first concerns the appellant's sur place political activity and the second concerns 'redocumentation' and return to Iraq. I will take each in turn. Before doing so, I remind myself that a party appearing before a Tribunal is entitled to know, either expressly stated by it, or inferentially stated, what it is to which the Tribunal is addressing its mind. An appellant is entitled to know the basis on which the conclusion has been reached. I am mindful of the reminder, in Lowe v SSHD [2021] EWCA Civ 62 by McCombe LJ, at paragraph [29], that appellate courts should exercise caution when interfering with evaluative decisions of first instance judges.

The appellant's sur place 'political activity'

17. Although it is true to say Judge Thapar does not expressly say that she finds the appellant's sur place 'political activity' is simply opportunistic, upon a careful reading of the findings set out at paragraphs [17] to [29] of the decision, it is in my judgement clear that the only proper inference to be drawn is that the judge did not accept that the Facebook posts represent genuinely held political views, and that they are an opportunistic attempt by the appellant to create the impression that he will be at risk upon return.

18. At paragraphs [11] and [12] of her decision, Judge Thapar refers to the previous decisions of Judge Lloyd and Judge Grimmett. At paragraph [13], Judge Thapar summarised the claim now made by the appellant as follows:

"The Appellant's most recent submissions claim that he would now be at risk upon return to Iraq due to his political activities in the UK. The Appellant avers that he has expressed dissenting views against the Iraqi government, the Shia Militias and the Kurdish politicians. These views have been shared through an account visible to the public on Facebook and consequently the Appellant has received threats and his uncle in Iraq has been attacked. The Appellant claims that his online commentary is akin to journalistic activities and due to his criticism of prominent figures in the KDP he would be at risk of persecution on return. The Appellant states that his uncle and family have now gone into hiding and he has no support network available in Baghdad or in the IKR."

19. Judge Thapar addressed the appellant's claim at paragraphs [17] to [26] of her decision. She noted, at [17], when questioned about where he obtained news regarding the situation in Iraq, the appellant claimed he used Facebook to obtain news, but also used newspapers, YouTube and news channels from Iraq. When pressed, he provided non-specific answers and simply repeated that he obtained news from Facebook, newspapers and news channels. Judge Thapar noted, at [18], that the appellant's only form of political activity has been on Facebook and that he has not attended any demonstrations in the UK. She noted the appellant does not claim to have been politically active in Iraq before his arrival in the UK and neither are any members of his family involved in political activity. Judge Thapar referred to the appellant's Facebook account, at [19], and noted the absence of any evidence that the

appellant has received any threats or negative comments as a result of his posts on his actual account. She also noted the appellant is referred to as a female on his account. Judge Thapar addressed the appellant's claim that he has received two threats which were sent to him through 'Facebook messenger', at paragraph [19] and found the appellant does not have a political profile in Iraq, nor is he of any interest to the authorities. She said there is nothing to suggest that the individuals would pose a risk to the appellant if he were to return to Iraq, or that the authorities are aware of the appellant.

20. Given the appellant's immigration history, Judge Thapar properly noted the timing of the appellant's claim that he is at risk upon return because of his sur place 'political activity'. At paragraph [20], Judge Thapar said:

"The Appellant said within his statement of 27 May 2020 that he did not mention previously his political activities as he did not realise that his activities would place him in danger. In oral evidence the Appellant stated that he failed to mention these facts earlier as he was not asked about his activities on Facebook. The Appellant has been inconsistent in his reasons for failing to disclose his political activities previously."

21. Judge Thapar considered the screenshot of a message the appellant received from his uncle and the medical report relied upon by the appellant. At paragraph [23], Judge Thapar found the appellant has failed to demonstrate that he is related to Mr [BSA] or that the messages received were sent by Mr [BSA] in Iraq. She said the medical report itself casts doubt upon the appellant's claim that his uncle was assaulted by the police or government authorities as the report was commissioned by the police and not his uncle. She noted the appellant was in contact with his claimed uncle until December 2020, and there have been no further reports of any incidents since the alleged assault in April 2020. At paragraph [24], Judge Thapar found the appellant has been unable to demonstrate to the lower standard that his uncle was attacked by government authorities, and that the cause of the assault was the appellant's activities in the UK. At paragraphs [25] and [26], Judge Thapar said:

“25. The Appellant claims that he would be at risk if he returned to Iraq due to his activities on Facebook, however, for the reasons stated above. I find that he has not established that the authorities are aware of his activities in the UK. The Appellant’s activities are limited to Facebook alone, he has not engaged in any protests or other political activities in the UK despite stating that he has been politically active since March 2019. He was unable to provide specific information about his sources of information, and given his limited activity, I do not accept that he would be regarded as a journalist upon his return. Given the lack of any adverse attention being received onto his Facebook account, he has received no further messages through Facebook messenger since May 2020, and as his claimed uncle has not experienced any further difficulties since t (*sic*) assault in April 2020, I find that the Appellant has failed to establish that the authorities in Iraq including the KDP or PUK are aware of the Appellant.

26. I have found that the Appellant’s evidence in relation to core elements of his account are inconsistent, implausible and incoherent. I find that this undermines the credibility of the Appellant’s claimed account and the veracity of his claim. It follows that I find that the Appellant has failed, to the lower standard of proof, to demonstrate that he is at risk on return on account of his political activities in the UK. Furthermore, the Appellant has produced no evidence which would lead me to depart from the findings previously made by Judge Lloyd and Judge Grimmett. Consequently, I find that the Appellant does have family that he can return to in Iraq, and he would not be at risk on account of his marriage.

22. At paragraphs [29] and [30], Judge Thapar concluded:

“29. I have carefully considered the impact of the Appellant’s opposing and critical comments made on Facebook and for the reasons detailed above I do not find that these would place the Appellant at an enhanced risk upon return.

30. As stated above, having considered the whole of the evidence in the round, I find that the Appellant has not discharged the burden of proof of having a well-founded fear of persecution for a Convention reason and that the Appellant’s removal would not cause the UK to be in breach of its obligations under the 1951 Convention.

23. I accept, as Mr Williams submits that the core of the appellant’s account before the First-tier Tribunal was his political beliefs and his reliance upon the ‘posts’ on his Facebook account. I have considered the appellant’s Facebook posts and the translations that were before the First-tier Tribunal. The appellant’s representatives claimed in the further submissions on 18th June 2020, that there were “many thousands of posts on his account which has been running for over a year”. The date upon which the appellant established his Facebook account is not clear. At pages 8 to 61 of the appellant’s bundle there appears a copy of the appellant’s ‘Facebook posts’ that were exhibited to his witness statement

dated 26th November 2020. The appellant appears to have '567 mutual friends' and he is "followed by 19 people". The appellant's 'posts' comprise of the appellant posting 'photographs', sometimes with a short comment, or of the appellant being 'tagged' in posts by others. To that end, the appellant's 'sur place political activity' is limited to repeating what is already reported in the media. In any event, it was in my judgment undoubtedly open to Judge Thapar to note, at paragraph [25], that the appellant was unable to provide specific information about his sources of information, and given his limited activity, that she did do not accept that he would be regarded as a journalist upon his return.

Return to Iraq and redocumentation

24. It is common ground between the parties that Judge Thapar erred in her finding that the appellant will be able to return to the IKR via direct flight. The appellant is from Makhmour, which is part of the Disputed Territories and according to the relevant country guidance, is administered by Ninewa. The respondent had said in paragraph [46] of her decision that if the appellant returned voluntarily with the necessary travel documents, he would be able to return voluntarily to either Erbil or Sulaymaniyah, without having to transit via Baghdad. Mr Williams accepts any forced return would, at the time of the First-tier Tribunal's decision, have been to Baghdad.
25. Although I accept Judge Thapar made a mistake as to fact, that mistake was in my judgment immaterial to the outcome of the appeal. I reject the claim made by the appellant that Judge Thapar failed to consider and address the appellant's evidence that his uncle and family have now gone into hiding and he has no support network available to him either in Baghdad or the IKR. I also reject the claim Judge Thapar failed to make findings on how the appellant would be able to redocument himself if he had to travel by land through checkpoints from Baghdad.
26. In paragraph [27] of her decision, Judge Thapar said:

“The Appellant previously produced identification documents, however, none have been submitted within this appeal. It was found in the previous appeals that the Appellant does have family in his home area. The Appellant was in contact with his uncle and was able to send and receive documents from his uncle and the Iraqi authorities in the UK. Against this background, I find that the Appellant has failed to demonstrate he would be unable to obtain a replacement CSID from the London embassy prior to return or that his family could not assist him to obtain appropriate documents within a reasonable period of return.”

27. Judge Thapar did not limit her consideration of the appellant’s ability to secure a CSID to whether the appellant could obtain a replacement CSID from the London Embassy prior to his return to Iraq. Importantly, she went on to say: *“or that his family could not assist him to obtain appropriate documents within a reasonable period of return.”*
28. She referred to the guidance set out in SMO, KSP & IM (Article 15(c); identity documents) (CG) [2019] UKUT 00400 (IAC) and at paragraphs [29] to [31] said:

31. In assessing his risk on return, I have considered the guidance set of in SMO. I have found that the Appellant has failed to demonstrate that he would be unable to obtain a CSID or other relevant documentation. I find that the Appellant will be able to return to the IKR via direct flight. The Appellant is in contact with family members and I find that the Appellant has failed to demonstrate that he could not have family support available to him upon return. Given that I have found that the Appellant has failed to establish family links have been lost, I find the Appellant has also failed to demonstrate that he would be unable to obtain employment due to nepotism and patronage that exists within the IKR. In addition, given the existence of family I find the Appellant has failed to demonstrate that he could not be financially supported on return to the IKR. The Appellant has failed to demonstrate that he would be unable to obtain a CSID card which would enable him to work. The Appellant has not asserted that he would be prevented from work through medical conditions or otherwise. The Appellant is of working age. The Appellant is resourceful, he has travelled across Europe to claim asylum in the UK, which of itself demonstrates resourcefulness. The Appellant is not from a formerly ISIL held area. In any event, the Appellant will be returned from the UK which would dispel any suspicions that he had previously been involved with ISIL and has failed to demonstrate that he would not have family who would be able to vouch for him. The Appellant is Kurdish and for all these reasons, I find that the Appellant has failed to demonstrate that there will be any risk to him upon return to the IKR.” *(my emphasis)*

29. In paragraph [26] of her decision, Judge Thapar expressly stated the appellant has produced no evidence which would lead her to depart from

the findings previously made by Judge Lloyd and Judge Grimmett. Judge Thapar found that the appellant does have family that he can return to in Iraq, and he would not be at risk on account of his marriage. At paragraph [31], Judge Thapar expressly states that she has found that the appellant has failed to establish that his family links have been lost.

30. It is clear from a careful reading of the decision that Judge Thapar found that on any view, the appellant's family could assist him to obtain appropriate documents within a reasonable period of return. That could be either be by the appellant's family sending the original of the CSID (*a certified copy of which they have previously sent to the appellant from Iraq*) to the appellant, or by meeting the appellant in Baghdad with his CSID to ensure safe passage from Baghdad to the family home, within a reasonable time.
31. Although I accept the decision of Judge Thapar could have been clearer, Judge Thapar's decision is to be read looking at the substance of the reasoning and not with a fine-tooth comb or like a statute in an effort to identify errors. In my judgment, the grounds of appeal do not disclose a material error of law capable of affecting the outcome of the appeal.
32. It follows that in my judgment, there is no material error of law in the decision of Judge Thapar, and I dismiss the appeal.

Decision

33. The appeal is dismissed. The decision of First-tier Tribunal Judge Thapar shall stand.
34. I make an anonymity direction.

Signed **V. Mandalia**

Date:

12th August 2022

Upper Tribunal Judge Mandalia