



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

Appeal Number: PA/01336/2020
UI-2021-000598

THE IMMIGRATION ACTS

**Heard at Bradford
On 24 June 2022**

**Decision & Reasons Promulgated
On 9 August 2022**

Before

UPPER TRIBUNAL JUDGE LANE

Between

**WSSA
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Ajuna

For the Respondent: Mr Diwnycz, Senior Presenting Officer

DECISION AND REASONS

1. The appellant is a male citizen of Iraq. He appealed to the First-tier Tribunal against a decision of the Secretary of State to refuse him international protection. The First-tier Tribunal dismissed his appeal and the appellant now appeals, with permission, to the Upper Tribunal.
2. At [28], Judge Monson in the First-tier Tribunal wrote:

I reviewed with Mr Ajuna the previous decision of the First-tier Tribunal and the appellant's case on appeal as set out in the detailed submissions which his firm had prepared. Mr Ajuna acknowledged that

the CPIN cited in the further submissions had been published before the previous appeal hearing. So, the only new evidence was the passage of time (although additional new evidence followed after the hearing as detailed above). I drew attention to the fact that Judge Widdup had made one significant finding in the appellant's favour, which was that there were very significant obstacles to his integration into life and society in Iraq. Mr Ajina confirmed that this was the nub of the appellant's case, and he also confirmed that the protection elements of the appellant's case were no longer pursued. Similarly, he confirmed that the appellant was no longer pursuing a medical claim under Article 3 ECHR. [my emphasis]

3. The sole issue before the First-tier Tribunal, therefore, was whether the appellant could return to live in the UAE, the previous Tribunal having found that he could not return to Iraq. At [39], Judge Monson concluded:

The appellant has not shown that the visa ban is anything more than a temporary one, and he has also not shown that it would not be feasible for his family to sponsor him to return to the UAE to reside with them; and/or for him to return on a tourist visa, once the ban has been lifted, and to re-acquire a right of residency through finding a new job. Therefore, the appellant has not discharged the burden of proving Appeal Number: PA/01336/2020 10 that there are likely to be very significant obstacles to him returning to the UAE, his country of former habitual residence; or very significant obstacles to him integrating into life and society there, if he was required to leave the UK

4. Granting permission, Upper Tribunal Judge Sheridan wrote:

It is arguable that the judge (Judge of the First-tier Tribunal Monson) erred by, in his assessment of whether the appellant satisfied para. 276ADE(1)(vi), treating the UAE as "the country to which he would have to go" when the appellant did not have a right (even a temporary one) to reside in the UAE.

5. The grounds set out numerous reasons why the appellant argues that he cannot relocate to the UAE:

i) The Appellant is not a national of the UAE; ii) The Appellant does not hold a current right to reside in the country (this was terminated when he left the country in 2017 and/or by virtue of his absence from the country for over 6 months and/or by virtue of his residency in the country expiring in 2019; iii) The Appellant was not born in the UAE, and does not have a claim to residency / nationality by virtue of his birth; iv) The Appellant is a single male with no children and therefore does not have a claim to residency / nationality by virtue of being the immediate family member (i.e. spouse or parent) of a UAE national / a person residing in the UAE; v) The UK government may not lawfully remove the appellant to the United Arab Emirates as the Appellant is not a national of the UAE and/or a current resident of the UAE. vi) The Appellant cannot administratively be removed by the United Kingdom to the UAE as the UAE authorities would not accept the Appellant to enter its territories by virtue of not being a national of the UAE and/or a current resident of the UAE.

6. At the initial hearing in the Upper Tribunal, Mr Diwnycz, Senior Presenting Officer who appeared for the Secretary of State, indicated that the respondent accepts that the First-tier Tribunal erred in law by concluding in the face of the evidence that the appellant was able to relocate to the UAE. Having considered the file, I agree. The judge's finding was not rational on the evidence for the reasons contained in the grounds of appeal. In the circumstances, I set aside the decision and allow the appeal against the decision of the Secretary of State to refuse the appellant international protection.

Notice of Decision

I set aside the decision of the First-tier Tribunal. I have remade the decision. The appellant's appeal against the decision of the Secretary of State dated 24 January 2020 is allowed

Signed

Date 28 June 2022

Upper Tribunal Judge Lane

Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, the appellant is granted anonymity.

No-one shall publish or reveal any information, including the name or address of the appellant, likely to lead members of the public to identify the appellant. Failure to comply with this order could amount to a contempt of court.