



**Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: PA/02918/2020**

THE IMMIGRATION ACTS

**Heard at Birmingham CJC
On the 30 June 2022**

**Decision & Reasons Promulgated
On the 19 July 2022**

Before

UPPER TRIBUNAL JUDGE HANSON

Between

[M S M]

(Anonymity direction made)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: In person.

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

DECISION AND REASONS

1. By a decision promulgated on 10 May 2022 the Upper Tribunal found a judge of the First-tier Tribunal had erred in law such that that decision was set aside, and directions given for the matter to proceed to a Resumed hearing, which comes before me today.
2. It is not disputed the appellant is a citizen of Iraqi born on 1 May 1993 who claimed asylum on the basis of an alleged risk on return as a result of mistreatment he would suffer, including unlawful killing and torture or inhumane or degrading treatment, as a result of an honour killing.
3. The First-tier Tribunal found that, even taking the appellant's claim at its highest, it was difficult to see how there is an honour crime on the evidence. However, the rejection of the honour killing claim and the First-tier Tribunal's conclusion there was no risk of indiscriminate harm

- in the appellant's home area are preserved findings, which have not been shown to be infected by material error of law.
4. Permission to appeal was granted by another judge of the First-tier Tribunal on the basis it was said to be arguable the First-tier Judge had failed to give adequate reasons for finding the return of the appellant to Iraq would not be in breach of Article 3 ECHR given his lack of identity documents.
 5. On 26 April 2022 the Upper Tribunal handed down the latest country guidance relating to Iraq in SMO & KSP [2022] UKUT 00110.
 6. The scope of today's hearing is limited to considering the issue of risk on return in light of the availability or otherwise of the required documentation.
 7. In addition to the handing down of the country guidance case, a further development is the change of policy by the Secretary of State who now undertakes enforced returns to any airport in Iraq, including within the IKR.
 8. The appellant stated in his evidence before me that his home area in Iraq is Tuz Khurmatu. It is not disputed that he is of Kurdish ethnicity. Those issues were not disputed by the Secretary of State in the reasons for refusal letter dated 16 March 2020. Tuz Khurmatu is the central city of Tooz District in Saladin Governorate, Iraq, located approximately 55 miles south of Kirkuk.
 9. The decision of the First-tier Tribunal that the appellant could be returned to either of the major airports in the IKR has not been challenged successfully by the appellant.
 10. The appellant has a father and paternal aunt in Iraq, has been issued with a passport, and stated in his asylum interview that he had left his CSID card at home when he left Iraq, although did not know whether it would still be there now.

Discussion

11. The appellant is an intelligent individual having attended university in Iraq and having gained employment. He would therefore have had regular use of his CSID, and it would not be unreasonable on the facts of this appeal to find that, even applying the lower standard, he would be aware of the required information used to obtain the CSID.
12. It is important, however, to not lose sight of the findings of the First-tier Tribunal who found the appellant's claim regarding what occurred to him in Iraq, on which he based his asylum claim, totally lacked credibility. As Mr Williams submitted it is acceptable to assess the merits of his claim regarding lack of contact with family since he came to the United Kingdom with caution.
13. The appellant in his submissions repeated his claim he could not recall the required details to obtain a CSID on the basis there was no need for him to do so as he had been issued with this document.
14. The appellant claimed he had never left his home area, he had never had to arrange being in Sulamaniyah from his home area, and he was unaware when he went there for work what arrangements had been made for him to travel.

15. The appellant's home area is Tuz Khurmatu. If he travelled to Sulaymaniyah, a journey of approximately two hours and over a hundred miles, the appellant would have passed through various checkpoints. There is no evidence of his experiencing credible problems passing through checkpoints which indicates that he must have had in his possession required identity documents to convince the militia and others manning the checkpoint that he posed no risk to them.
16. The finding of the First-tier Judge is that the core of the appellant's claim is not credible and that it was not unreasonable to expect him to return to the IKR, either Sulaymaniyah or Erbil, is sustainable.
17. The appellant's evidence is that his father still lives in his home city, and that the appellant has made contact with his father. I find there is no credible evidence that he would not be able to continue to do so again which undermines his claim relating to his inability to be able to gain access to his CSID.
18. I accept the reality of not having the necessary identity documents is summed up in the latest CIPU in the following terms:
 - 2.6.9 However, those who return to Iraq or the KRI without a CSID or INID, cannot obtain one via a family member on arrival and who would be required to travel internally to a CSA office in another area of Iraq or the IKR to obtain one would be at risk of encountering treatment or conditions which are contrary to paragraphs 339C and 339CA(iii) of the Immigration Rules/Article 3 of the ECHR. In these cases, a grant of Humanitarian Protection is therefore appropriate (unless the person is excluded from such protection).
19. I do not find the appellant has, however, discharged the burden of proof upon him to establish he falls within such a category of persons. I find the appellant has not established that he will not be able to have his CSID sent him in advance by family members or that they would not go to meet him at the airport to hand it to him.
20. There is no issue relating to the ability of the appellant to be returned, for as an Iraq Kurd he can be returned with a laissez passer that would be issued by the Embassy in the UK. The appellant has failed to establish he is an undocumented Iraqi and so I must dismiss the appeal.

Decision

21. **I dismiss the appeal.**

Anonymity.

22. The First-tier Tribunal made an order pursuant to rule 45(4)(i) of the Asylum and Immigration Tribunal (Procedure) Rules 2005.

I make such order pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008. 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.

Signed.....
Upper Tribunal Judge Hanson

Dated 6 July 2022