Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: UI-2021-000683
PA/03377/2020

THE IMMIGRATION ACTS

Heard at Field House
on 15 June 2022

Decision & Reasons Promulgated
on 2 August 2022

Before

UPPER TRIBUNAL JUDGE CANAVAN

Between

S K
(ANONYMITY ORDER MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Anonymity

Pursuant to rule 14 of The Tribunal Procedure (Upper Tribunal) Rules 2008, the appellant is granted anonymity. The case involves a protection claim. 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.

Representation:

For the appellant: Mr J. Howard, instructed by Fountain Solicitors
For the respondent: Mrs A. Nolan, Senior Home Office Presenting Officer

DECISION AND REASONS

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1. The appellant appealed the respondent's decision dated 02 June 2020 to refuse a protection and human rights claim.

2. First-tier Tribunal Judge Juss ('the judge') dismissed the appeal in a decision promulgated on 23 June 2021. The judge summarised the background to the appeal, the respondent's reasons for refusal, and the core aspects of the appellant's claim [1]-[5]. The appellant claimed that he would be at risk on return to KRG because he had attracted the adverse attention of 'extremist Muslims' because of his academic research on Christianity. He received threats and on one occasion was shot at by unknown men in a vehicle [5]. The judge went on to summarise the evidence given at the hearing and the submissions made by the representatives [8]-[17]. The judge made clear that he had considered all the relevant evidence before him [19].

3. The judge noted that this was not a case where the appellant claimed to have converted to Christianity. His claim was that he was conducting field research for an academic supervisor. The judge found that it was notable that he did not claim that his supervisor had been targeted. The research was into the history of churches in Iraq. The judge appeared to accept that there might have been disagreements amongst college students about religious issues, but concluded that such disagreements did not amount to persecution. He did not find it credible that the appellant would be targeted for such study done in preparation for a Masters Degree [20].

4. The judge noted that even if the claim was taken at its highest the appellant said that he reported the incident to the police. He said that the police told him that they would look into the telephone numbers from which the threatening calls were made. Given that some numbers might be unregistered, but others might be, the judge found that it was incredible that the police did not get back to the appellant if they had said that they would make enquiries with the cell phone companies [21].

5. The judge repeated that it was implausible that the appellant would be threatened if his supervisor was not. He rejected the account because 'the story judge does not add up'. Even if the claim was taken at its highest, the judge did not find it credible that the appellant would continue to be at risk on return some three years later when he was no longer conducting research on the subject [22]. The judge went on to reject the submission that the appellant was likely to be at risk from Salafists. The background evidence referred to a risk to Christian converts who were seen as evangelists. The judge found that the appellant was not a convert and that his account had been 'crafted in order to fit into the available objective evidence'. He rejected the assertion that the appellant would be perceived as a Christian convert. In any event, the judge concluded that the fact that the appellant claimed to have obtained a court order indicated that sufficient protection was likely to be available [23].

6. The judge concluded by considering whether any issues arose relating to documentation in light of the relevant country guidance. Given that the

applicant had the details of various identity documents it was not a salient issue in this case [26]-[27]. The judge concluded that the appellant did not meet the family or private life requirements of the immigration rules and that there were no compelling circumstances that might render removal to be unjustifiably harsh on human rights grounds [28]-[29].

7. The appellant applied for permission to appeal to the Upper Tribunal on the following series of grounds:

   (i) The judge failed to make findings in relation to a material matter i.e. whether the appellant was shot at by men from a vehicle.

   (ii) The judge accepted that there was warning letter against the appellant but failed to consider the risk arising from that evidence adequately.

   (iii) The judge failed to consider whether the appellant qualified for Humanitarian Protection with proper reference to the country guidance decision in *SMO (Article 15(c); identity documents) Iraq CG* [2019] UKUT 00400 (IAC).

   (iv) The judge failed to consider whether the appellant would be at risk for a Convention Reason as someone who would be <u>perceived</u> to have converted from Islam to Christianity in light of background evidence contained in the COIR 'Iraq Religious Minorities (October 2019).

   (v) The judge failed to give adequate reasons to explain why the appellant did not meet the requirements of paragraph 276ADE(1)(vi) of the immigration rules.

   (vi) The judge failed to adequately assess whether sufficient protection would be available.

<u>Decision and reasons</u>

8. At the hearing, Mr Howard only pursued the first, second, and fourth grounds orally. He was right to narrow the focus of the appeal.

9. The third ground makes no more than a bare assertion that the judge failed to make findings relating to Humanitarian Protection (HP) in light of the appellant's 'personal characteristics' without particularising how or why the appellant might have qualified. If the only reason why it was said that he would qualify for HP was the risk on return resulting from the appellant's research, the point stands or falls with the First-tier Tribunal's findings relating to the Refugee Convention. The country guidance does not support an assertion that there is a general Article 15(c) risk in KRG.

10. The fifth ground made nothing more than a bare assertion that the judge failed to give reasons to explain why the appellant did not meet the requirements of paragraph 276ADE(1)(vi) of the immigration rules. The ground failed to particularise what evidence there was to show that he

would face ‘very significant obstacles’ to integration if he returned to KRG, a place where he was born and had spent all of his life before coming to the UK. In fact, the judge made clear that he found that the appellant did not meet the requirements for the same reasons given in the respondent’s decision letter.

11. The sixth ground made a bare statement that the judge failed adequately to assess whether there would be sufficient protection ‘in light of the background material’ without particularising how or why there might be an error of law. It was open to the judge to take into account the fact that the appellant had produced evidence that purported to be issued by the ‘Investigation Court’ in Zakho, which was translated as a ‘Providing Protection Memo’. The order was directed to ‘members of judicial control, police officers in Kurdistan Region/Iraq’. It stated that those who were the subject of the order were ‘obliged to provide sufficient protection’ to the person named in the order because he had registered a complaint on 31/08/17 stating that there was a threat to his life from unknown persons.

12. Turning to the grounds relied on at the hearing. The first and second grounds make essentially the same point, that the judge failed to make specific findings as to whether the appellant was threatened and shot at by unknown persons in 2017. It is clear that the judge took this aspect of the appellant’s evidence into account because he summarised the case at [5]. The judge gave a series of reasons for rejecting the overall credibility of the appellant’s claim to have been threatened by religious extremists. He did not find it plausible that the nature of the appellant’s research would bring him to such extreme levels of attention, especially when his academic supervisor did not appear to have been targeted. Those findings were within a range of reasonable responses to the evidence.

13. Although the judge did not make specific findings relating to the threats said to have been received by way of a messaging app, the evidence contained in the Home Office bundle was fairly limited. It contained copies of four messages when the appellant had claimed that he was threatened every 3-4 days. The judge did take into account the fact that there was a document from the court, but as part of alternative findings. It is clear from the face of the decision that the judge gave a series of otherwise sustainable reasons for rejecting the plausibility of the overall account. Even if the appellant had been shot at, he was unable to say who those people were or why they might have shot at him. The court order did not mention a shooting incident.

14. Even if this aspect of the claim was taken at its highest it would not have made any material difference to the outcome of the appeal. The judge made clear that there would be no reason why religious extremists would target the appellant some three years later given that he was not in fact a Christian convert and was no longer conducting research on the history of Christian churches.

15. The fourth ground asserts that the judge erred in failing to consider whether the appellant might nevertheless be perceived as a Christian convert as a result of his research. I note that the appellant's claim was that he visited churches as part of his research. Although I accept that visiting a church might possibly give rise to a perception that a person might be attending church as a Christian, it was open to the judge to conclude that the extreme reaction described by the appellant seemed implausible. The threatening messages produced by the appellant seemed to make clear that the person making the threat was aware that the appellant was conducting research on the history of the churches. They stated that the appellant should stop his research, but nothing in the messages suggest that it was believed that he had converted to Christianity. There was little evidence to suggest that he would be perceived to be a Christian convert.

16. It is clear that the judge had taken into account the submissions referring to the CPIN on Iraq religious minorities and had noted the page references given to him [17]. The background evidence stated that violence against Christians in KRG was less common than in other areas of Iraq, but that Christians still faced discrimination. The section referred to in the grounds appears to relate to Iraq in general rather than the KRG.

17. The summary of the subjects the appellant studied in his first degree at the Department of History at the University of Zakho showed that he had studied a range of subjects including the history of the Kurds in the Medieval Age, Ancient History of Egypt, Europe in the Renaissance, and the history of the USA. The appellant said that he was conducting this research for a supervisor in preparation for a Masters degree. Even if the appellant's research had attracted some adverse attention, this was not a long standing area of study that the appellant could not be expected to give up in order to avoid the threats. Nothing in the evidence suggests that this was an area of research of such fundamental importance to the appellant that he could not be expected to give it up. The evidence showed that he had studied a wide range of historical subjects. It was open to the judge to note that the appellant was no longer conducting the research and would not be at risk. Even if the claim was taken at its highest the court order indicated that sufficient protection was likely to be available. Those findings were within a range of reasonable responses to the evidence.

18. For the reasons given above the First-tier Tribunal decision did not involve the making of an error on a point of law.

DECISION

The First-tier Tribunal decision did not involve the making of an error on a point of law

Signed M. Canavan Date 16 June 2022
Upper Tribunal Judge Canavan

NOTIFICATION OF APPEAL RIGHTS

1. A person seeking permission to appeal against this decision must make a written application to the Upper Tribunal. Any such application must be **received** by the Upper Tribunal within the **appropriate period** after this decision was **sent** to the person making the application. The appropriate period varies, as follows, according to the location of the individual and the way in which the Upper Tribunal's decision was sent:

2. Where the person who appealed to the First-tier Tribunal is **in the United Kingdom** at the time that the application for permission to appeal is made, and is not in detention under the Immigration Acts, the appropriate period is **12 working days (10 working days, if the notice of decision is sent electronically).**

3. Where the person making the application is in detention under the Immigration Acts**, the appropriate period is 7 working days (5 working days, if the notice of decision is sent electronically)**.

4. Where the person who appealed to the First-tier Tribunal is **outside the United Kingdom** at the time that the application for permission to appeal is made, the appropriate period is **38 days (10 working days, if the notice of decision is sent electronically).**

5. A "working day" means any day except a Saturday or a Sunday, Christmas Day, Good Friday or a bank holiday.

6. The date when the decision is "sent' is that appearing on the covering letter or covering email