Upper Tribunal
(Immigration and Asylum Chamber) **Appeal Number: PA/04258/2019**

THE IMMIGRATION ACTS

Heard at Bradford CJC	**Decision & Reasons Promulgated**
On 7 October 2021	**On the 12 October 2022**

Before

UPPER TRIBUNAL JUDGE HANSON

Between

FKA
(Anonymity direction made)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:
For the Appellant: In person.
For the Respondent: Miss Young, a Senior Home Office Presenting Officer.

DECISION AND REASONS

1. In a decision promulgated on 8 October 2021 the Upper Tribunal set aside the decision of a First-tier Tribunal Judge ('the Judge') in this case, directed there shall be a number of preserved findings, and adjourned the rehearing to await the promulgation of the further country guidance case relating to Iraq which has now been reported as SMO [2022]UKUT 00110.

2. The appellant is a citizen of Iraq born on 1 February 1978.

3. The decision of the Judge was set aside in relation to the findings concerning the appellant's access to necessary documents required to be able to live safely in Iraq. Permission to appeal was granted to the Secretary of State as it was said the Judge had failed to give adequate consideration to the ability of the family of the appellant to assist him in obtaining appropriate identity documents from the local authorities in the appellant's home area. There was no cross-appeal or challenge by the appellant to the rejection of the core aspects of his claim for international protection which were found to lack credibility by the Judge and other judges in earlier determinations in 2004 and 2007. It was noted by the Judge that in both decisions the appellant was found to be wholly lacking in credibility. It was found there was nothing in the evidence before the Judge that warranted departing from the earlier findings based upon the application of the Devaseelan principles.

4. The preserved findings from the Judges decision are at [56 – 57] and the finding that when the appellant left Iraq he left his identity documents with his mother in Sulamaniyah. At [56 – 57] the Judge wrote:

> 56. I unhesitatingly accept the submission made by the respondent that my starting point for considering the appellant's credibility is the previous determinations decided in 2004 and 2007. In both decisions the appellant was found to be wholly lacking in credibility. The second determination naturally relied upon the findings in the first in which the appellant's credibility was rejected in the most resounding terms. It is, of course, correct that I must bear in mind the impact of the traumatic brain injury which the appellant undoubtably suffered might have on the evidence he might give as a witness. However, there is nothing in this expert evidence, or indeed anything else on the papers, that might operate to cause a departure from the fundamental findings of fact that were previously reached. What has clearly changed since those decisions is the recognised ability of a returnee to secure fresh documentation to survive, function and travel within Iraq.
>
> 57. I do not accept the appellant's evidence that he lost contact with mother and brother approximately 8 months ago. It cannot have escaped the appellant, an individual has been resisting his removal from the UK for many years now, that a loss of family contact would assist him in an appeal where the redocumentation process represented a central issue to be determined. This aspect of his case echoes the claimed reconnection with his brother in the months leading up to his 2007 appeal. Judge Baird rejected the appellant's case that recent contact had occurred which seemingly conferred a ground of appeal. I too reject the appellant's case here that he fortuitously lost contact with his [family] in the months leading up to this appeal. I am fortified in this finding given that it is very surprising that the appellant has been able to make contact with his family over a course of his near 17 year stay in the UK only to lose touch shortly before an appeal where he would argue that it cannot rely on the assistance of his family to secure fresh documentation.

5. At [58] the Judge wrote "*at the hearing, the appellant stated that he left his identity card with his mother in Sulaymaniyah when he left in 2001. The respondent relied upon this evidence to suggest that this could be used by his family to assist him to secure replacement identification documents.*

6. At the date of the previous hearing the point of return for enforced returnees from the UK was to Baghdad. Much of the discussion that occurred before the Judge therefore related to any problems the appellant would experience in travelling from Baghdad to Sulaymaniyah to obtain an INID card which has now replace the CSID in Iraq.

7. As the appellant left Iraq in 2001 he would not have been issued with an INID as there were only introduced from January 2016. It will therefore be necessary for him to travel to his local CSA office to enable him to register his biometrics and obtain an INID.

8. The appellant's CSA office is located in Sulamaniyah. It has always been accepted on the evidence this is the case. That office no longer issues CSID cards.

9. A fundamental change that has occurred is that the respondent now returns enforced returnees to any airport within Iraq including to the IKR.

10. It is not made out the appellant will be unable to obtain a laissez passer from the Iraqi authorities in the UK. There is insufficient evidence to warrant a finding to the contrary.

11. The appellant will therefore be returned directly to Sulaymaniyah airport where he can be met by his family who he can advise of the date and time of his return. There is no evidence to show the appellant will be unable to re-enter Iraq at this point as an ethnic Kurd or be unable to pass through the airport without experiencing any problems. It is not made out his family will be unable to hand him his CSID which will enable him to travel freely within the IKR or Iraq generally.

12. It is not made out the appellant will be unable to contact his local CSA office, or that his family will be unable to do it on his behalf, to arrange an appointment for him to attend to provide his biometric documents.

13. It is not made out the appellant will not have the support of family within Iraq at the point of return to enable him to re-establish himself and reintegrate into his home state. It is not made out on the evidence there are any unsurmountable obstacles preventing the appellant successfully reintegrating notwithstanding his time in the United Kingdom.

14. The appellant's claim for international protection has been previously rejected. The appellant's claim to face a real risk pursuant to article 3 ECHR on the basis of lack of documentation is not made out before me. The appellant can be re-documented. It is not made out that there will be any breach of any obligation owed by the United Kingdom government pursuant to section 6 of the Human Rights Act, by reference to any provision of ECHR, if the appellant is returned to Iraq.

15. At the hearing the appellant was given the opportunity to reply to the submissions of Miss Young made in support of the Secretary of State's case. The appellant did not dispute the factual matrix outlined by Miss Young in relation to returns to Sulaymaniyah or the documentation issue, as referred to above, but mention the fact that he had ongoing medical problems for which he received medication and that he had suffered harm when he was beaten in prison. These were, however, issues that had been raised by the appellant previously and did not establish any entitlement to remain in the United Kingdom. It has not been made out the appellant could not obtain any medication he required in Iraq or that any injuries that he has suffered are such as to result in a material way upon his ability to function and reintegrate, on either a physical or psychological level. There is no evidence the appellant can meet the high threshold recognised by the Supreme Court in AM (Zimbabwe) in relation to such matters.

16. On that basis I dismiss the appeal.

Decision

17. I dismiss the appeal.

Anonymity.

18. 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 7 October 2022