



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

Appeal Number: PA/06166/2019

**THE IMMIGRATION ACTS**

**Heard at Bradford IAC  
On 10 June 2022**

**Decision & Reasons Promulgated  
On 24 June 2022**

**Before**

**UPPER TRIBUNAL JUDGE REEDS**

**Between**

**C A  
(ANONYMITY ORDER MADE)**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: No appearance and no representation

For the Respondent: Mr Diwnycz, Senior Home Office Presenting Officer

**Anonymity :**

Rule 14: The Tribunal Procedure(Upper Tribunal) Rules 2008:

Anonymity is granted because the facts of the appeal involve a protection claim. and Unless and until a tribunal or court directs otherwise, the appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify her. This direction applies both to the appellant and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.

**DECISION AND REASONS**

1. The appellant, who is a citizen of Iraq, appeals with permission against the decision of the First-tier Tribunal (Judge Grimmett) (hereinafter referred to as the "FtTJ") who dismissed the appellant's protection and human rights appeal in a decision promulgated on the 13 September 2019 .
2. Permission to appeal that decision was sought on grounds issued by the appellant acting in person and on 27 January 2020 permission was granted by FtTJ Grant.
3. The hearing was listed before the Upper Tribunal by way of Notice of Hearing sent to the parties on 13 May 2022. There has been no appearance by or on behalf of the appellant at the hearing. There has been no correspondence received from the appellant to give any reasons for her non-attendance and having confirmed with Mr Diwnycz the address showing on the home office records as her current address this is consistent with the address where the hearing notice was sent. I am satisfied that the notice has been properly served at the address held by the Tribunal and the home office.
4. I also note the litigation history set out on the Tribunal file. The FtTJ heard the appeal on 2 September 2019. In a decision promulgated on 13 September 2019 the FtTJ dismissed the appeal on protection and on human rights grounds.
5. The appellant issued grounds of appeal out of time on 26 December 2019. On 27 January 2020 FtTJ Grant extended time and granted permission to appeal. The appeal was listed for hearing before the Upper Tribunal however an application was made by the appellant for an adjournment on the basis that the appellant was pregnant and was representing herself ( see decision dated 18 March 2020). The appeal was therefore adjourned.
6. On 23 April 2020 Upper Tribunal Judge Blum considered the file and gave directions indicating that his provisional view the question of whether there was an error of law by the FtTJ could be decided on the papers and asking the party's views. The respondent provided written submissions on 29 May 2020 by email. There was no response on behalf of the appellant.
7. On 18 December 2020 Upper Tribunal Judge Keith gave further directions listing the appeal for a hearing. The hearing was listed on 22 February 2022, but the appellant did not attend the hearing. Further steps were taken to ascertain the appellant's current address. A new address was provided from the respondent's file. However the court records show that the Home Office contacted the tribunal by email stating that the appellant had made an application for leave to remain under Article 8 in October 2020 which was granted under Article 8 (10 year route) in May 2021.
8. The hearing was listed again before the Upper Tribunal on 10 June 2022. Nothing further has been heard from the appellant and there has been no compliance with any directions.

9. There has been no communication with the Tribunal from the appellant since the application made for permission in 2019 and no compliance with the directions sent at various stages by the Upper Tribunal.
10. In the circumstances the appeal will be determined on the material before the Tribunal.
11. The grounds of challenge were drafted by the appellant in person. They set out the following; “the decision is wrong. I have a well-founded fear to be killed in Iraq.... I do not have a solicitor that is why I cannot find in which point of law the judge’s erred in law. But as a woman involved in bisexual. I know how big my problems are, and what kind of fate is waiting for me in Iraq. There are some misunderstanding or misinterpretations may be my case.” The grounds then go on to make reference to the factual basis of her case. Reference is also made to her partner.
12. The grant of permission states that no findings are made under Articles 2 and 3, Articles 15 ( c) or Article 8, and that the judge may arguably have erred in law in giving inadequate reasons.
13. Against that background I consider the decision of the FtTJ. The appellant was represented by Counsel before the FtTJ who had the advantage of hearing the evidence in the appellant’s appeal. The account given by the appellant was that she had a same-sex relationship with a woman from August to November 2018 and was caught in bed with this woman and the woman’s brother extorted her. She did not pay the money asked for and he came to the house threatening to harm her. Two friends helped find an agent and she left Iraq. She travelled from Erbil to Turkey on 9 November 2018, stayed there for 2 days and entered unknown countries on 4 different lorries until she reached the UK on 19 November 2019.
14. The respondent in the decision letter dated 18 June 2019 considered her account and whilst it was accepted that she was from the IKR in Iraq and of Kurdish ethnicity and of the Kakaie religion, the account she gave as to events were not accepted and it was considered that she had given an inconsistent account in relation to the material facts of the claim including her asserted sexual orientation. Additional credibility findings were set out at paragraph 43 relating to her account of leaving Iraq and travel to the UK.
15. The FtTJ in her decision noted the background evidence at paragraph [2] concerning same-sex relationships. At paragraphs [5]-[11] the FtTJ set out her analysis of the evidence and her conclusions. The FtTJ noted that there were a number of inconsistencies in her claim and identified them from paragraphs 5 - 10 in the decision. They related to the core of her claim to be at risk of harm due to the same-sex relationship she claimed to have in Iraq. The judge identified that she was not consistent about when the relationship began [paragraph 5], what had happened when they were discovered [paragraphs 6-7] and that she had given inconsistent evidence about the employment of the person who was kidnapping her [paragraph

8]. As to the basis of risk, the judge identified that at the hearing she claimed to be killed by relatives from the family tribe, but that claim had not been made in the interview or witness statement. The judge also sets out that when she was asked who she had a relationship with she gave differing names and the judge found that it was “somewhat surprising that she did not know the name of the woman she claimed to have loved for many years.” Whilst it was submitted there may be problems of interpretation, the judge was satisfied that the discrepancies arose on the basis that the appellant having “forgotten account she gave to the respondent because it was not a true account.” The FtJ therefore concluded that the appellant had not left the country of her nationality due to any threat made to her.

16. As to the issue of documentation the judge dealt with this briefly at [11] that as she had not found the appellant had given a truthful account, the judge did not accept that she had no travel documents or identity documents that would not allow her to return to her home in the IKR. The FtJ placed weight on the screening interview where it was said her identity card was in Iraq. The judge stated that the appellant would be able to obtain that from her family who remained there. The appeal was therefore dismissed.
17. No further submissions or representations have been filed on behalf of the appellant.
18. Mr Diwnycz relied upon the reply to the directions sent 29 May 2020 by his colleague.
19. As to the grant of permission where it was stated that the FtJ had not considered Article 8, the respondent set out that the appeal form dated 1 July 2019 completed by the appellant solicitors stated at section 3 “human rights decision” “there is a real risk the appellant will face ill-treatment on return contrary to Article 3 ECHR”. No appeal was pursued under Article 8. Therefore the FtJ did not err in law by failing to consider a ground that was not before it.
20. As to the grant permission in which it was stated that the judge gave inadequate reasons and did not consider Articles 2 and 3 and Article 15 (c), the respondent submitted at paragraph 7, that in light of the findings on credibility, the appeal was bound to fail on protection grounds. The evidence was undermined by multiple and significant internal inconsistencies set out in the decision. The judge was entitled to reject the core of the claim accordingly. Therefore the appeal disposed of her appeal and protection grounds.
21. The grounds seeking permission were submitted by the appellant in person although it is clear that at the hearing the appellant did have legal representation. Having read them, they do not set out why the FtJ arguably erred in law. By stating that the decision “is wrong” and then providing information about the factual account that was given before the

judge does not in itself provide any basis for a challenge to the FtTJ's decision but is in reality a disagreement with the factual findings made.

22. The grant of permission is based on the FtTJ not considering Articles 2, 3 and Article 8. As the respondent sets out in the written submissions, on the basis of the credibility assessment made at the hearing, the appellant's protection claim failed. The appellant's claim on Articles 2 and 3 was based on the same factual premise and therefore there was no error of law in the judge's decision by not separately considering them.
23. As to Article 8, the decision letter noted that the appellant claimed to have a partner but failed to demonstrate that she was in an ongoing relationship. The skeleton argument provided for the hearing makes no reference to any claim based on Article 8. Furthermore, the original grounds of appeal also make no reference to Article 8 as set out in the respondent's submissions.
24. In the circumstances, it has not been demonstrated that there was any error in the FtTJ's decision relating to Article 8. It is also of relevance that whilst the appellant in the grounds of appeal against the decision referred to a partner, which was 3 months after the hearing. The application that was subsequently made in October 2020 was made over a year after the initial hearing before the FtTJ and there is no evidence provided that any relationship entered into was one that was placed before the FtTJ at the time of the hearing.
25. Whilst the grant of permission refers to giving inadequate reasons, the de even if it could be set that the decision of the FtTJ was in relatively brief terms, the judge engaged with the core aspect of her account but for the reasons the FtTJ gave she was not satisfied that the appellant's account was consistent and credible. The grounds do not provide any basis for challenging those factual findings and are in reality a disagreement with them.
26. For those reasons it is not demonstrated that the FtTJ erred in law

## **Decision**

27. The decision of the First-tier Tribunal did not involve the making of an error on a point of law; the decision shall stand.

### *Rule 14: The Tribunal Procedure (Upper Tribunal) Rules 2008*

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the respondent. Failure to comply with this direction could lead to contempt of court proceedings.

Signed Upper Tribunal Judge Reeds  
Dated : 13 June 2022