Upper Tribunal
(Immigration and Asylum Chamber) **Appeal Number: LP/00272/2020**
(PA/50129/2020)

THE IMMIGRATION ACTS

Heard at Birmingham CJC	**Decision & Reasons Promulgated**
On 19th July 2022	**On the 3rd January 2023**

Before

UPPER TRIBUNAL JUDGE MANDALIA

Between

ZHTQ
(Anonymity Direction Made)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:
For the Appellant: Mr M Mozzam, instructed as agent for CB Solicitors
For the Respondent: Mr C Williams, Senior Home Office Presenting Officer

DECISION AND REASONS

Anonymity

An anonymity direction was made by the First-tier Tribunal. The appeal before me arises from a claim for international protection and it is appropriate for an anonymity direction to be made by me. Unless and until a Tribunal or Court directs otherwise, the appellant is granted anonymity. No report of these proceedings shall directly or

indirectly identify him or any member of his family. This direction applies amongst others to all parties. Failure to comply with this direction could lead to contempt of court proceedings.

1. The appellant is a Kurdish national of Iraq. He arrived in the UK on 6th February 2018 and made a claim for asylum. The claim was refused by the respondent for reasons set out in a decision dated 26th February 2018. The respondent accepts the appellant lived in Tuz Khurmatu, which is in the Salah-Al-Din Governorate, but rejected the core of the appellant's claim regarding the events that caused him to leave Iraq and seek international protection.

2. The appellant's appeal was heard by First-tier Tribunal Judges Athwal and Dixon ("the panel") and dismissed for reasons set out in a decision promulgated on 22nd December 2020.

3. The background to the appellant's claim was summarised by the panel of the FtT in paragraph [1] of their decision:

> "He worked for Hashd Al Shaabi ('HAS') in a restaurant with his father and three others and they provided meals for HAS. He left work on 3 May 2019 because his employer reduced his salary. On 10 May 2019 poisoned food was served to members of HAS and three men were hospitalised as a result, for which the Appellant was not responsible. The Appellant was in Kirkuk at this time and he received a call from his mother. She informed him that HAS raided their home and arrested his father. They were also looking for the Appellant. The Appellant was instructed by his mother not to return home, but to contact his mother's cousin 'J' who lived in Kirkuk, and stay with him. J took the Appellant to a farm outside Kirkuk city and he remained there for twelve days before he left Iraq with the assistance of an agent. The Appellant claimed that if we were returned to Iraq, he would be killed for poisoning three members of the HAS."

4. The panel summarised the respondent's reasons for refusing the claim at paragraphs [5] to [10] of their decision. The appellant gave evidence before FtT with the assistance of a Kurdish Sorani interpreter. The findings and reasons of the panel are set out at paragraphs [39] to [62]. The panel rejected the appellant's claim that he is wanted by Hashd Al Shaabi ("HAS"), a Shia militia, for being involved in the poisoning of its

members. They accepted that if the appellant were a target of the Shia militia, he would not have sufficient protection in Tuz Khurman, but internal relocation to the IKR would not be unduly harsh. The panel considered the appellant's claim that he does not have a CSID but found that the appellant is in contact with his family and could be met on return at the airport by his father with his CSID, or alternatively, the CSID could be posted to the appellant in the UK.

5. The appellant claims the panel of the FtT erred in its consideration of the evidence and placed undue weight upon the appellant's failure to refer to his fear of the HAS during his screening interview. When asked during the screening interview to briefly explain all the reasons why he cannot return to Iraq, the appellant had said he is scared of the *"Shia militia because they threatened to kill me"*. The appellant also claims the panel of the FtT failed to give anxious scrutiny to the appellant's evidence and disregarded the evidence concerning the efforts made by the appellant to establish contact with his family through the Red Cross when finding the appellant is still in contact with his family, and they can arrange for a new CSID card for the appellant.

6. Permission to appeal was granted by Upper Tribunal Judge Blundell on 25th March 2021. He said:

> "Firstly, the FtT clearly attached a great deal of significance to the fact that the appellant had not mentioned in his screening interview something which he later relied upon in his asylum interview. As is clear from the analysis at [42] – [44] of the decision, the panel attached significance to the appellant's failure to mention the Hashd Al Shaabi by name and to make reference to the poisoning incident in which he was suspected to have been involved. I can find nothing wrong, or arguably wrong, with the second of those concerns. The first is potentially erroneous for the simple reasons given in the grounds, however; Hashd al-Shaabi is the Arabic name for the Popular Mobilisation Force or Popular Mobilisation Units, otherwise known as the Shia militia. It is arguable, therefore that in mentioning the Shia militia in his screening interview, the appellant did indeed mention the Hashd al-Shaabi, as it is arguable that these terms are used interchangeably.
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> Secondly, in concluding that the appellant was able to obtain a new CSID, the FtT was arguably influenced by the holding in SMO, KSP and

> IM (Iraq) CG [2019] UKUT 4000 (IAC) that Iraqi citizens would ordinarily remember the volume and page number of their entry in the Family Book. Concerns over the sentence in question recently led the Court of Appeal to remit SMO and KSP to the Upper Tribunal on that issue alone…."

7. Mr Mozzam adopted the grounds of appeal. He submits there are in essence two grounds of appeal. The first concerns the panel's consideration of the core of the appellant's account that he fears the Shia militia that is also known as the HAS. The second concerns the risk upon return by reason of the fact that the appellant does not have a CSID card to enable his safe passage from Baghdad to either his home area or indeed the IKR.

8. Mr Mozzam submits the appellant clearly referred to his fear of the 'Shia militia' because they threatened to kill him, during his screening interview. He referred to the incident that had occurred "around 10th May 2019". Mr Mozzam refers to the decision of the Upper Tribunal in YL (rely on SEF - China) [2004] UKIAT 00145, at [19], in which the Upper Tribunal noted that the purpose of a screening interview is to establish the general nature of the claimant's case so that the Home Office official can decide how best to process it. A screening interview is not conducted to establish in detail, the reasons a person gives to support his/her claim for asylum. It would not normally be appropriate for the interviewer to ask supplementary questions or to entertain elaborate answers.

9. Mr Mozzam submits the panel placed undue reliance upon the appellant's failure to make express reference to the HAS during his screening interview. The HAS is a Shia militia and it was sufficient for the appellant to have referred to his being scared of the Shia militia because of something that happened around 10th May 2019. Mr Mozzam submits any failure on the appellant's part to elaborate further, is not something that can properly be weighed against the appellant in considering his overall credibility and the core of his account.

10. Mr Mozzam submits the panel also attached undue weight to the appellant's failure to claim asylum in Italy as a factor that damages the appellant's credibility. He adopts the grounds of appeal as far as the appellant's CSID card is concerned.

11. In reply, Mr Williams accepts the panel erred when they said the appellant did not name HAS but referred to the generic Shia militia, during the screening interview. Although that is strictly true, he accepts Hashd Al Shaabi is a Shia militia and the terms are used interchangeably, so that a reference in a screening interview to the 'Shia militia' should have been accepted as a reference to 'HAS'. However, Mr Williams submits that error is immaterial because when the decision is read as a whole, it is clear the panel would not have reached a different decision.

12. Mr Williams submits the panel rejected the core of the appellant's claim that he would be killed on return to Iraq for poisoning three members of the HAS. Mr Williams submits that at paragraphs [39] and [40] of their decision, the panel had proper regard to s8 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 and it was open to the panel to have in mind the fact that the appellant failed to take advantage of a reasonable opportunity to make an asylum claim whilst in Italy, a safe country, and that damages the appellant's credibility.

13. Mr Williams submits the Tribunal carefully considered the appellant's claim that he is at risk upon return from the HAS and noted various discrepancies in the appellant's account. At paragraph [41], the panel referred to the evidence of the appellant as set out in in the interview record, his statement, and his oral evidence and they identified a series of inconsistencies in his account. The reference at paragraphs [42] to [44] to what was said by the appellant during the screening interview was not the only reason given by the panel for rejecting the core of the appellant's account.

14. As far as the CSID is concerned, Mr Williams submits that at paragraph [57], the panel referred to the appellant's evidence that he had left his CSID card behind when he travelled to Kirkuk because he did not need it. The panel noted, at [58], the appellant has provided different accounts about what happened to his identification documents and at [59], they referred to the appellant's claim that his family cannot provide replacement documents because the appellant is no longer in contact with his family. At paragraph [60], the panel referred to the vague and incomplete evidence before it regarding the appellant's contact with the Red Cross. He submits the panel considered the claims made by the appellant not only by reference to his own evidence but also by reference to the background material. Mr Williams refers to the asylum interview in which the appellant claimed that when the Popular Mobilisation Force came to the family home on 10th May 2019, he was in Kirkuk *(Q.207)*. He had claimed that he did not have any difficulties getting to Kirkuk and he was able to pass through with any kind of ID *(Q.207 and Q.208).* Mr Williams submits it was open to the panel to conclude the appellant is not a credible witness, that he is in contact with his family, and that on return, he could be met at the airport with his CSID or the appellant's CSID could be posted to him.

Discussion

15. I take each of the criticisms made by the appellant in turn.

The core of the appellant's account

16. Here, it is now common ground that the HAS is a Shia militia and that the panel erred in its understanding that the appellant did not mention the HAS in his screening interview. The issue for me is whether that was material to the outcome of the appeal. I do not accept that it was. I accept, as Mr Williams, submits that the panel would have reached the same conclusion even if they had not made that error.

17. At paragraphs [39] and [40] of their decision the panel referred to s.8 Asylum and Immigration (Treatment of Claimants, etc.) Act 2004. In JT (Cameroon) -v- SSHD [2008] EWCA Civ 878, the Court of Appeal confirmed that s.8 is no more than a reminder to fact-finding Tribunals that conduct coming within the categories stated therein has to be considered when assessing the credibility of an asylum seeker. The panel were entitled to have regard to the conduct of the appellant and the explanation provided by him for his failure to claim asylum in Italy. The panel had regard to the contradictory explanations provided by the appellant. While such conduct had to be considered and was capable of damaging credibility, the Court of Appeal confirmed that s8 did not dictate that damage to credibility inevitably resulted. The weight to be given to the appellant's conduct was entirely a matter for the panel. It is clear the panel found the appellant's behaviour damages his credibility, but went on to consider the core of the appellant's account on its own merits.

18. The assessment of the appellant's credibility and the core of his account was a highly fact sensitive task. The panel were required to consider the evidence as a whole. In assessing the credibility of the appellant and the claim advanced by him, the panel were required to consider a number of factors. They include, whether the account given by the appellant was of sufficient detail, whether the account is internally consistent and consistent with any relevant specific and general country information, and whether the account is plausible. Clearly, some of those factors may be more relevant in an individual case than others. If an account is littered with internal inconsistencies that may be enough for a judge to dismiss the evidence of an appellant as incredible.

19. At paragraph [41] of their decision, the panel found the appellant had given contradictory accounts regarding the core of his claim. His evidence regarding his work for the HAS in a restaurant lacked proper explanation and was littered with inconsistencies. His account of the

events of 10th May 2019 and how he came to learn of the raid on the family home and the arrest of his father was similarly vague and littered with inconsistencies.

20. At paragraph [42], the panel said, *"The Appellant did not mention HAS or the poisoning in his screening interview"* (my emphasis). I accept the panel erred in saying that that the appellant did not mention HAS, but they did not err in noting that the appellant did not mention "the poisoning". In YL (rely on SEF - China) the Upper Tribunal reiterated that asylum seekers are expected to tell the truth and answers given in screening interviews can be compared fairly with answers given later. I accept that in the course of a screening interview, an individual is asked to do nothing more than provide the briefest of information about their claim and that routinely, interviewing officers do not ask supplementary questions or entertain elaborate answers. During the screening interview, the appellant was not only asked who he fears, but was also asked why he fears them. The appellant simply claimed, *"They are against me because I am a Kurd and don't support them"*. There was no reference whatsoever to the appellant fearing the Shia militia because they believe he was involved in poisoning three members of the militia. Fearing the Shia militia because the appellant is a Kurd and does not support them is quite different from fearing the Shia militia because they suspect him of poisoning three of their members.

21. The panel recorded, at [47], that they have carefully considered all the appellant's evidence. They noted the appellant had three opportunities of providing an account of what happened to him in Iraq, and in each account, he contradicted himself regarding the core of his claim. They noted that in trying to reconcile his contradictory accounts, the appellant had provided new explanations in his oral evidence. I am satisfied that even if the panel had not had regard to the screening interview, they would have reached the same decision regarding the core of the appellant's account based on the internal inconsistencies referred to in

paragraph [41] alone. The error that is conceded by Mr Williams was not material to the outcome of the appeal as far as the core of the appellant's account is concerned.

Return to Iraq and redocumentation

22. The appellant is from Tuz Khurman, which is in the Salah-Al-Din Governorate, a formerly contested area. At paragraph [32] of their decision the panel recorded that the appellant will be returned to Baghdad as he is not from the IKR.

23. In reaching their decision, the panel referred to the country guidance set out in SMO, KSP & IM (Article 15(c); identity documents) Iraq CG [2019] UKUT 004100 (IAC) ("SMO & Others I") The panel noted, at [33], that the CSID is an essential document along with the newly introduced INID. They said, "Most citizens will recall the page number of their entry in the Family Book to allow a CSID to be obtained in the UK. If not, information can come from family members abroad". At paragraph [57], the panel referred to the appellant's evidence as set out in the interview record that he left his CSID card behind when he travelled to Kirkuk, because he did not need it. Thereafter, the panel referred to the inconsistencies in the appellant's evidence regarding his identification documents and the appellant's claim that he has no ongoing contact with his family.

24. At paragraph [60], the panel referred to the evidence before it regarding the appellant's contact with the Red Cross. The panel noted the appellant has provided a copy of the referral form that records the appellant's details There was no evidence before the Tribunal that the appellant has provided the full and correct details of his family so that any meaningful attempt can be made by the Red Cross to trace the appellant's family.

25. At paragraph [61], the panel noted that the appellant's account regarding the use of his CSID is inconsistent with the background material and that

the appellant has provided different accounts about what happened to his identification documents. The panel also noted that the appellant's account of the lack of any contact with his family is contrary to what was said in SMO & Others I. The panel found, at [62], that the appellant is in contact with his family and that his father could meet him at the airport with his CSID card or alternatively, it could be posted to the appellant in the UK. The panel concluded that if the CSID has been destroyed, the appellant's family would be able to obtain identification documents that would allow him to obtain a replacement CSID in the UK.

26. On the appellant's account, he had left his CSID at home when he went to Kirkuk before the claimed raid on the family home. The panel found that the appellant remains in contact with his family. The question of a replacement CSID does not therefore arise and whether or not the appellant can remember the volume and page reference in the Civil register is immaterial. It was open to the Tribunal to find that the appellant's father could meet the appellant at the airport in Baghdad with his CSID or alternatively, the CSID could be posted to the UK.

27. The panel went o to consider what would happen in the event the "CSID has been destroyed". They said that the appellant's family would be able to obtain identification documents that would allow him to obtain a replacement CSID in the UK. The latest iteration of the Country Guidance is SMO & KSP (Civil status documentation; article 15) Iraq CG [2022] UKUT 00110 (IAC) ("SMO & Others II"). That guidance post-dates the decision of the panel. Mr Mozzam did not draw my attention to anything within the revised country guidance that undermines the conclusion reached by the panel. In Part C of the headnote, the Tribunal confirmed the CSID is being replaced with a new biometric INID and that it is necessary for an individual to have one of these two documents in order to live and travel within Iraq without encountering treatment or conditions which are contrary to Article 3 ECHR. The Tribunal said:

> "13. Notwithstanding the phased transition to the INID within Iraq, replacement CSIDs remain available through Iraqi Consular facilities but only for those Iraqi nationals who are registered at a CSA office which has not transferred to the digital INID system. Where an appellant is able to provide the Secretary of State with the details of the specific CSA office at which he is registered, the Secretary of State is prepared to make enquiries with the Iraqi authorities in order to ascertain whether the CSA office in question has transferred to the INID system.
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> 14. Whether an individual will be able to obtain a replacement CSID whilst in the UK also depends on the documents available and, critically, the availability of the volume and page reference of the entry in the Family Book in Iraq, which system continues to underpin the Civil Status Identity process. Given the importance of that information, some Iraqi citizens are likely to recall it. Others are not. Whether an individual is likely to recall that information is a question of fact, to be considered against the factual matrix of the individual case and taking account of the background evidence. The Family Book details may also be obtained from family members, although it is necessary to consider whether such relatives are on the father's or the mother's side because the registration system is patrilineal."

28. The panel found the appellant remains in contact with his family. The appellant has not adduced any evidence that is capable of undermining the conclusion reached by the panel that the appellant's family would be able to obtain identification documents that would allow him to obtain a replacement CSID in the UK. The appellant does not, for example, claim that he was registered at a CSA office that has transferred to the digital INID system. Whether or not the appellant can recall the volume and page reference of the entry in the Family Book in Iraq is again immaterial because he remains in contact with his family. On any view, the Family Book details may be obtained from the appellant's paternal family members. Simply put, on the findings made by the panel the relevant information could be obtained from the appellant's father.

29. Therefore on any view, the appellant's family could assist him to obtain appropriate documents within a reasonable period of return. That could either be by the appellant's family sending the original of the CSID to the appellant, or by meeting the appellant in Baghdad with his CSID to ensure safe passage from Baghdad to the family home, within a reasonable time. If the CSID is not available for whatever reason, the

relevant information could be obtained from the appellant's father so that the appellant will be able to obtain a replacement CSID whilst in the UK through Iraqi Consular facilities. The conclusion reached by the panel at paragraph [62] of their decision was clearly open to the panel. The findings reached are neither irrational nor unreasonable.

30. The panel's decision is to be read looking at the substance of the reasoning and not with a fine-tooth comb in an effort to identify errors. In my judgment, the grounds of appeal do not disclose a material error of law capable of affecting the outcome of the appeal.

31. It follows that in my judgment, there is no material error of law in the decision of the panel of the FtT, and I dismiss the appeal.

Decision

32. The appeal is dismissed. The decision of the First-tier Tribunal (Judges Dixon and Athwal) shall stand.

33. I make an anonymity direction.

Signed **V. Mandalia** Date: 9th December 2022

Upper Tribunal Judge Mandalia