



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2023-000019
First-tier Tribunal No:
PA/00464/2021

THE IMMIGRATION ACTS

Decision & Reasons Issued:
On the 30 April 2023

Before

UPPER TRIBUNAL JUDGE KEBEDE

Between

SH
(Anonymity Order made)

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr F Ahmad, instructed by Hanson Law
For the Respondent: Mr E Tufan, Senior Home Office Presenting Officer

Heard at Field House on 21 April 2023

DECISION AND REASONS

1. The appellant appeals, with permission, against the decision of the First-tier Tribunal dismissing his appeal against the respondent's decision to refuse his asylum and human rights claim.
2. The appellant is a national of Iraq born on 20 May 1999. He claims to have arrived in the UK on 8 September 2015. He claimed asylum on 11 February 2016 on the basis of a fear of persecution in Iraq because of his religion and ethnicity, as a Yazidi Kurd. His claim was refused on 8 November 2018 as the respondent did not believe that he was a Yazidi Kurd. The appellant appealed against that decision and his appeal was dismissed by First-tier Tribunal Judge Jones on 4 January 2019. The appellant became appeal rights exhausted on 28 March 2019.
3. On 19 March 2020 the appellant made further submissions, relying upon two main points: firstly, an allegation that Judge Jones' decision had been biased; and secondly that his ID card confirmed his religion and ethnicity.
4. In a decision of 22 October 2021, the respondent treated the submissions as a fresh claim but refused that claim. The respondent maintained the position that the appellant was not of the Yazidi faith and that he would be at no risk on return to Iraq.

5. The appellant appealed against that decision and his appeal came before First-tier Tribunal Judge Abebrese on 7 June 2021. Judge Abebrese rejected the appellant's claim to be Yazidi, found him lacking in credibility as a witness and concluded that he would not be at risk in Iraq. He dismissed the appeal in a decision promulgated on 3 October 2022.

6. The appellant sought permission to appeal to the Upper Tribunal.

7. Permission was refused in the First-tier Tribunal but was subsequently granted in the Upper Tribunal upon a renewed application on the following grounds:

"The grounds of appeal are all arguable. The findings in this decision are brief in the extreme in the context of an Iraqi protection appeal raising different issues of risk and re-documenting and arguably fail to make adequate findings on key issues such as internal relocation. There is no reference at all to the current country guidance and references to the Appellant being able to obtain an INID are arguable wrong against the current background country guidance unless the Appellant was from Baghdad such that he could be returned and documented in the same city (it seems not, he was born in Nineveh); further, there is no express consideration of the CSID card or translations of it beyond the statement that it is a photocopy. The points that are expressly considered in the decision contain statements rather than any detailed analysis, consideration of the evidence or reasoning."

8. The respondent, in her Rule 24 response, accepted that First-tier Tribunal Judge Abebrese had materially erred in his decision, that his reasons for finding the appellant not to be credible were inadequate, that he had given no consideration to the country guidance and that he had not made any adequate findings on the issue of re-documentation of the appellant on return. The respondent accepted that Judge Abebrese's decision should be set aside.

9. At the hearing before me Mr Tufan stood by the Rule 24 response and conceded that Judge Abebrese's decision had to be set aside.

10. Given the extent of the errors, and the extent of the findings to be made on a re-making of the decision in the appeal, it was agreed by all parties that the most appropriate course would be for the case to be remitted to the First-tier Tribunal for a *de novo* hearing.

Notice of Decision

11. The making of the decision of the First-tier Tribunal involved the making of an error on a point of law. The decision is set aside. The appeal is remitted to the First-tier Tribunal to be dealt with afresh, with no findings preserved, pursuant to section 12(2)(b)(i) of the Tribunals, Courts and Enforcement Act 2007 and Practice Statement 7.2(b), before any judge aside from Judge Abebrese.

Anonymity Order

The anonymity order made in the First-tier Tribunal is maintained.

Signed: S Kebede
Upper Tribunal Judge Kebede

Judge of the Upper Tribunal
Immigration and Asylum Chamber

21 April 2023