



**Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: UI-2022-
003637**

**First-tier Tribunal: PA/52341/2021
IA06503/2021**

THE IMMIGRATION ACTS

**Decision & Reasons Issued:
On the 11 September 2023**

Before

**UPPER TRIBUNAL JUDGE PITT
DEPUTY UPPER TRIBUNAL JUDGE J F W PHILLIPS**

Between

**SJA
(Anonymity Direction made)**

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr A Eaton, Counsel instructed by Solomon
Solicitors

For the Respondent: Ms S Cunha, Senior Home Office Presenting
Officer

Heard at Field House on 9 August 2023

DECISION AND REASONS

Anonymity

1. Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 (SI 2008/2698) we make an anonymity order. Unless the Upper Tribunal or court directs otherwise, no report of these proceedings shall directly or indirectly identify the Appellant. This direction applies to both

Appeal no: UI-2022-003637
First-tier Tribunal: PA/52341/2021

the Appellant and to the Respondent and a failure to comply with this direction could lead to contempt of court proceedings.

Introduction

2. This is the continuation of an appeal by the Appellant against the decision of the First-tier Tribunal (Judge Peer) in which the Judge dismissed the appeal of the Appellant, a citizen of Iraq, against the Secretary of State's decision to refuse his claim for international protection.
3. The grounds of appeal to the Upper Tribunal assert that the First-tier Tribunal Judge erred in law by making contrary and speculative findings material to the outcome and reaching the threshold of irrationality. Permission to appeal was refused by Judge Elliott in the First-tier Tribunal on 30 June 2022 but on renewal to the Upper Tribunal was granted by Judge Norton-Taylor on 21 September 2022 on the basis that "it is arguable, albeit by a relatively narrow margin, that a tension exists within [59] and that a degree of speculation is present in the judge's finding on the presence and ability of unidentified extended family members to assist the appellant with re-documentation. At a couple of points in his assessment, the judge states that a certain eventuality was "possible", but did not state in terms whether it was, or was not, reasonably likely to be the case."

Submissions

4. For the Appellant Mr Eaton said that the only ground of appeal relates to the Appellant's access to a CSID and whether he has family that he can look to for assistance in getting a CSID. If he is going to access CSID he will need someone to go to Mosul. The Judge accepted at paragraph 59 specifically that Mosul was occupied by ISIL and largely destroyed and that it is consistent with this that his immediate family are no longer in Mosul and that there is no longer direct family to assist in re-documenting the Appellant in Mosul. At paragraph 69 the Judge accepts that the Appellant is unlikely to remember his full details due to the period that he has been away from Iraq. The Judge bases the findings that he can access his CSID on the Appellant's evidence that he has wider family in Erbil including uncles and aunts. The Appellant said that he had no contact with these relatives. Judge Norton-Taylor in the grant of permission notes that the Judge says both that the Appellant's claim to have wider family he had never met is possible but also that the additional detail of having no contact with them is "convenient". This is contradictory.
5. Ms Cunha for the Respondent said that whilst the Respondent is in agreement with Judge Norton-Taylor regarding a degree of speculation nonetheless this is not material given findings at paragraphs 68-70 that this is someone who had a CSID card and left it in Mosul. It supports the Judge's finding in respect of contact with family. Ms Cunha said that her concession is only on speculation, there is a distinction made by the Judge, who having no direct evidence of the identity of family members has speculated "a little bit". At paragraph 59 the Judge accepts that family

Appeal no: UI-2022-003637
First-tier Tribunal: PA/52341/2021

may have moved away from Mosul but the Judge does not accept that the Appellant cannot contact family members. The Judge notes at paragraph 68 the Appellant's claim that he deliberately left documents. The Judge finds he has family in Iraq who he could contact to assist in redocumentation.

6. Replying Mr Eaton referred again to paragraph 59 and said that it was the Appellant's case that he was not in contact with his family because of what happened in Mosul. At paragraphs 67 and 68 the Judge finds that he had a CSID before he left but reaches no conclusion as to how this would assist.

Discussion

7. The Appellant is a 42-year-old citizen of the Iraq who arrived in the United Kingdom in 2008. His initial asylum claim was refused on 27 October 2008 and further submissions were refused in 2017. The Appellant made yet further submissions in 2020 and these were refused by a decision made on 29 April 2021 and it is the Appellant's appeal against that decision that came before the First-tier Tribunal and was dismissed. In a lengthy decision the First-tier Tribunal found the Appellant's account of the circumstances leading to his claim for asylum to be incredible and concludes (at paragraph 45) that the Appellant has not demonstrated that he would be of adverse interest on return and that his fear of return is not well founded. This conclusion is not challenged in the grounds of appeal. The grounds of appeal to the Upper Tribunal as confirmed by Mr Eaton relate only to the Appellant's access to a CSID.
8. In this respect the grounds, concentrating on paragraphs 59, 61 and 69 of the decision complain that the findings are contradictory and speculative accepting that the Appellant's family may no longer be in Mosul and that he had wider family in Erbil that he had never met but also finding that not meeting or speaking to this wider family was not plausible. It was also accepted that the Appellant may not be able to remember his CSID details but that this wider family would be able to assist him in redocumentation. Mr Eaton emphasised these points in submissions and Ms Cunha, whilst accepting that there was some speculation said that this is not material considering the findings in respect of leaving documentation in Mosul.
9. We have very carefully considered the detail of the First-tier Tribunal decision and, in doing so, have put to one side Ms Cunha's concession to come to our own conclusion on the findings. Our starting point must be the Appellant's overall credibility. In this respect the clear and unchallenged findings are that the Appellant's account of his reasons for leaving Iraq and fearing return were not credible. The Judge then goes on to consider the Appellant's internal relocation to the IKR although given the findings on credibility the issue was not internal relocation rather of return. In any event this is not material as access to CSID is relevant whether the Appellant returns to Mosul or relocates to the IKR.

Appeal no: UI-2022-003637
First-tier Tribunal: PA/52341/2021

10. It was the Appellant's case that he had a CSID and last recalled using it at the age of 16 or 17 and deliberately left it at his home in Mosul. Although the Appellant and his parents were born in Erbil the move to Mosul meant that this was where their registration was held. The home in Mosul has been destroyed, he has had no contact with his family for 11 years and does not know where they are and, although he has wider family in Erbil he has never met them or spoken to them. With no family to assist he has no way of getting a CSID.
11. Under the heading of internal relocation the Judge having quoted extensively from SMO and KSP (Civil Status documentation, article 15) CG [2022] UKUT 0110 refers at paragraph 58 to "the binding CG case law" which provides that where a person has family members living in the IKR cultural norms would require the family to assist accommodate the person and that such assistance would lead to a relatively normal life.
12. The Judge accepts "as cogent" at paragraph 59 that the Appellant's family home in Mosul may well have been destroyed forcing his family to move away and potentially to move from Mosul. Noting that the Appellant's parents were born and lived in Erbil and the Appellant's evidence that he had wider family there the Judge finds it 'possible' that the Appellant had wider family he had never met but 'unusual' in a cultural and country context that he would have an awareness of wider family but never to have met with or spoken to them. This is said to lack plausibility.
13. The grounds of appeal and Mr Eaton's submissions suggest that the findings in paragraph 59 are speculative and contradictory. On the one hand the Appellant's evidence is said to be 'cogent' and 'possible' and on the other 'convenient' and 'unusual' leading to the conclusion that it is 'implausible'. Mr Cunha accepted that there was some speculation but that given the later findings any speculation was not material.
14. Our analysis of paragraph 59 is that, although the wording could be described as inarticulate, the findings particularly when considered in the light of paragraphs 60 and 61 are clear. The Judge accepts that the Appellant's home in Mosul has been destroyed and that it is likely that his immediate family have moved noting particularly that the Appellant and his parents were born in Erbil. The Judge accepts the Appellant's evidence that he has wider family including various uncles and aunts (both paternal and maternal) in Erbil (see paragraph 61) and finds that he has a network of family connections that he can access in Erbil who could offer him assistance in accordance with the accepted cultural obligations. This is reinforced at paragraph 62 with the clear finding that the Appellant "has access to family assistance that he can articulate" and in paragraph 63 that his family and tribal association provides a context in which he can take steps to secure employment. It is on this basis that the Judge found, at paragraph 64, that it would not be unduly harsh and not unreasonable to expect the Appellant to relocate to the IKR. There is in our judgement

Appeal no: UI-2022-003637
First-tier Tribunal: PA/52341/2021

nothing speculative in this finding, it is clear and it is based upon the Appellant's own evidence.

15. However none of this directly relates to the Judge's decision in relation to redocumentation. This is considered separately and by reference to SMO 2022 at paragraphs 65 onwards with the Judge noting at the outset that return without identity documentation would not be feasible. At paragraph 68 the Judge turns to the Appellant's claim that he left his identity documents in Mosul. The Judge finds this implausible and gives clearly sustainable reasons. At paragraph 69 the Judge also finds it implausible that the Appellant last used his identity documentation when he was 16 or 17. The Judge is "prepared to accept" that the Appellant may well not recall the full details of his registration to facilitate the issue of a replacement CSID not because it is accepted that the Appellant last used the documentation when he was 16 or 17 but because of the long period of time that he has been away from Iraq.

16. It is at this point that the Judge refers back to the CSID and the finding that the Appellant could likely access family members to draw on for assistance in redocumenting himself. This finding is not made on the basis that the Appellant is in contact with family members but that he could make contact with family members and here it is necessary to refer back to paragraph 60 of the decision where the Judge finds

"The onus is on the appellant to demonstrate that he is unable to make contact with family members and I am not persuaded that he has made sufficient efforts or that he would not be able to articulate some family connections if he took steps to do so including through the use of social media."

17. The Appeal Skeleton Argument submitted to the First-tier Tribunal identifies the issues in this respect in the following way

- V. Is it likely the Appellant is in contact with his family? Or could contact them?
- VI. Is it likely then that the Appellant would be able to obtain a CSID or identity card?

There can in our judgement be little doubt that the Judge has dealt with those issues in the finding that it is likely that the Appellant can access family members to draw on for assistance in redocumenting himself.

18. It is very clear that the Judge takes a comprehensive and holistic approach and in our judgment there is nothing in the Judge's approach or reasoning that is irrational or that could amount to an error of law.

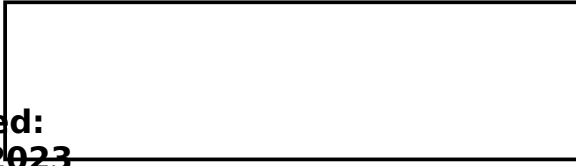
Conclusion

19. The decision of the First-tier Tribunal did not involve the making of a material error of law.

20. The appeal is dismissed. The decision of the First-tier Tribunal stands.

Signed:

2023



Date: 30 August

J F W Phillips
Deputy Judge of the Upper Tribunal