



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2022-003878

First-tier Tribunal No: PA/51149/2022

THE IMMIGRATION ACTS

Decision & Reasons Issued:

24th November 2023

Before

UPPER TRIBUNAL JUDGE MACLEMAN

Between

O J O

(anonymity order in place)

Appellant

and

S S H D

Respondent

Heard at Edinburgh on 15 November 2023

For the Appellant: Mr S Martin, of Jain, Neil & Ruddy, Solicitors

For the Respondent: Mr M Diwyncz, Senior Home Office Presenting Officer

DECISION AND REASONS

1. FtT Judge Rea dismissed the appellant's appeal by a decision dated 23 July 2022.
2. The grounds of appeal to the UT are set out in the application for permission. Ground 1 alleges error in failing to detect a risk arising from Facebook posts. It finds upon XX (PJAK - sur place activities - Facebook) Iran CG [2022] UKUT 23 (IAC), although recognising that relates to another country. Ground 2 is that a finding at [26] of a real risk of serious harm, although in contradiction of earlier findings, should have led to protection being granted. Ground 3 alleges error in reasons for giving no weight to an arrest warrant. Ground 4 is that the Judge "failed to appreciate the corroborative nature" of letters from the Hema Cultural Organisation. Ground 5 is that that the Judge erred by failing to note that an x-ray was linked to the appellant by a medical report, and by failing to consider all the evidence in the round, which was "sufficient to displace the findings" of a prior tribunal.

3. On 31 August 2022 FtT Judge Karbani granted permission: ...

The grounds aver the FTJ failed to adequately consider the risk on return arising from the use of a Facebook account to express political opinions, which was accepted.

This is an arguable error of law, following the case of XX ...

4. Although the grant specifies only the Facebook matter, Mr Diwyncz accepted that it opens the door to all grounds. Mr Martin, however, focused his challenge on ground 1, and did not expand on the rest of the grounds.

5. Mr Martin accepted that he could not challenge the conclusion at [21] that the appellant's "use of Facebook for political purposes and his involvement in demonstrations in the UK is at a very low level". However, he emphasised that there was no suggestion of bad faith, and so the appellant could not be expected to conceal or deny his activities. He argued that there was error in drawing the conclusion that the appellant "would not be exposed to a risk of harm in Iraq as a consequence of his anti-regime *sur place* activities".

6. That proposition in the grounds is followed by reference to the respondent's 2021 CPIN, to the general effect of no risk to low level opponents of the authorities in the KRG. The argument is developed that such information is "of some antiquity" and is superseded by XX, taken along with difficulties in re-documentation in Iraq, a process likely to lead to official questioning and suspicion, and revelation of the basis of the claim made in the UK.

7. Mr Diwyncz said that although this was not a case where the appellant could be expected to delete his Facebook record, he had simply not taken part in any activity at a level where there was evidence of retribution from the authorities in the KRG, even if it did become known to them. He also said that any risk of attention through the re-documentation process would be minimal, as latest information showed that now to be an easy and routine process. He accepted my observation that any change about documentation would be relevant only if the decision were to be remade, not regarding error of law.

8. Mr Martin had nothing to add.

9. I reserved my decision.

10. XX is a misleading analogy. Findings about Iran cannot simply be transposed to Iraq.

11. There was no foundation before the FtT for a finding that the appellant's activities were likely to become known to the authorities.

12. In any event, that was not the decisive issue. The FtT concluded at [24]:

I find that the evidence of *sur place* activity is slight and is indicative of a very low level of interest in and commitment to political activity. I am not satisfied that the Appellant has established a significant anti-regime profile as he claims. I find that even if the Appellant were to continue with his present level of activity in the event of his return to Iraq he would not be of interest to the authorities and hence would face no real risk of serious harm or persecution.

13. The appellant founded upon no background evidence that the authorities in the IKR persecute political actors at his trivial level. The Judge was correct in finding that such activities carry no risk. Ground 1 discloses no error.
14. Ground 2 is based on a clear typographical error. The only intended finding, to be consistent with the rest of the decision, is “no real risk”.
15. Grounds 3, 4 and 5 are dogged insistence and disagreement on the facts, but no more. They show no error of law in the FtT’s analysis of the evidence.
16. The appeal to the UT is dismissed. The decision of the FtT stands.
17. The FtT made an anonymity order, which is observed herein.

Hugh Macleman
Judge of the Upper Tribunal, Immigration and Asylum Chamber
16 November 2023