



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2023-002657
First-tier Tribunal No: PA/50322/2023
LP/00334/2023

THE IMMIGRATION ACTS

Decision & Reasons Issued:
On the 24 October 2023

Before

UPPER TRIBUNAL JUDGE HANSON

Between

BSO
(ANONYMITY ORDER MADE)

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Hussain of Riverway Law LTD
For the Respondent: Mr McVeety, a Senior Home Office Presenting Officer.

Heard at Phoenix House (Bradford) on 18 October 2023

Order Regarding Anonymity

Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, [the appellant] (and/or any member of his family, expert, witness or other person the Tribunal considers should not be identified) is granted anonymity.

No-one shall publish or reveal any information, including the name or address of the appellant, likely to lead members of the public to identify the appellant (and/or other person). Failure to comply with this order could amount to a contempt of court.

DECISION AND REASONS

1. The appellant appeals with permission a decision of First-tier Tribunal Judge Hillis ('the Judge'), promulgated following a hearing at Bradford on 17 May 2023, in which the Judge dismissed the appeal against the refusal of his application for international protection.
2. The appellant is a citizen of Iraq born on 21 January 1987. The Judge notes he arrived in the UK in 2016 and claimed asylum on 27th February of that year. The appellant was removed to Bulgaria on 30 January 2017 under the provisions of the Dublin Convention. Rather than returning to Iraq the appellant later travelled through Romania, Austria and France before

arriving in the UK hidden in a lorry on 13 September 2018, claiming asylum the same day. That application was refused on 6 January 2023.

3. At [13] the Judge notes that the appellant's age, gender, nationality, Kurdish ethnicity, Sunni faith, and his home area being in Tuz Khurmatu in the Suleyman Beg area of Iraq, outside the IKR is disputed, that the appellant cannot obtain a replacement CSID, and that his local CSA office has the new INID terminals installed and does not issue CDIS cards by proxy.
4. Having assessed the documentary and oral evidence the Judge concludes that the appellant had not produced sufficient evidence to show he and his father were threatened by JTRN members or that he was at risk on return to Iraq as claimed [22].
5. In relation to his contact with family, having assessed the evidence, the Judge concludes it is highly likely the appellant is claiming he has lost contact with his family in Iraq due to him stating he left his CSID card with them and that if he was to admit still being in contact they will be able to send it to him here in the UK [25].
6. The Judge concludes the appellant had failed to show that his CSID card is no longer in the possession of his family in Iraqi nor that they could not send it to him in the UK or meet him with it at the airport, and that his home area of Tuz Khurmatu is no longer a contested area [26].
7. It was accepted before the Judge that the appellant's circumstances did not permit him to remain on human rights grounds either under the Immigration Rules or Article 8 ECHR.
8. The appellant sought permission to appeal asserting the Judge erred in law by failing to give adequate reasons for findings on material matters of credibility being dismissed due to a lack of detail, and making a mistake of fact, for the reasons set out in the grounds dated 15 June 2023.
9. Permission to appeal was granted by another judge of the First-tier Tribunal on 13 July 2023.
10. There was no Rule 24 reply filed by the Secretary of State and so Mr McAveety was asked to confirm the respondents view in relation to the merits of the appeal. He accepted that the Judge's findings were too brief, that they lacked the required degree of analysis and reasoning, that more was required, and that the appeal should be allowed.
11. I accept that analysis and find the Judge has erred in law for the reasons set out in the grounds seeking permission to appeal and on the basis of the position adopted by the respondent. I find the errors to be material.
12. In relation to disposal, it was submitted the appeal should be remitted to the First-tier Tribunal. Having considered the guidance provided by the Upper Tribunal in Begum I find this is a case in which the Judge's findings are inadequate, that the appellant has not had the benefit of a proper assessment of his appeal or been provided with a decision supported by adequate reasons, and that extensive fact-finding will be required in relation to all aspects of the appeal on the next occasion.
13. I find that the appellant is entitled to have his appeal considered properly and that the unfairness which led to the matter being conceded impacts all of the decision. I therefore find it is appropriate in all circumstances for the appeal to be remitted.

Notice of Decision

14. The First-tier Tribunal has materially erred in law. I said that decision aside. The appeal should be remitted to the First-tier Tribunal sitting at Bradford to be heard *de novo* by a judge other than Judge Hillis.

C J Hanson

Judge of the Upper Tribunal
Immigration and Asylum Chamber
18 October 2023