



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM
CHAMBER

Case No: UI-2023-005444
First-tier Tribunal No:
PA/01107/2022

THE IMMIGRATION ACTS

Decision & Reasons Issued:
On the 13 June 2024

Before

UPPER TRIBUNAL JUDGE RINTOUL

Between

TWANA MOHAMMED RASUL
(NO ANONYMITY ORDER MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Robb, solicitor

For the Respondent: Mr A Mullen, Senior Home Office Presenting Officer

Heard at 52 Melville Street, Edinburgh on 1 May 2024

DECISION MADE PURSUANT TO RULES 34, 39 & 40 (3) OF THE
TRIBUNAL PROCEDURE (UPPER TRIBUNAL) RULES 2008

1. The appellant appeals with permission against the decision of First-tier Tribunal Judge S T Fox promulgated on 16 October 2023 dismissing his appeal against a decision of the Secretary of State made on 11 August 2021 to refused his protection and human rights claim.
2. Both parties agreed that the decision of the First-tier Tribunal involved the making of an error of law. In my view, they were right to do so. I am

satisfied that , as is averred at [1] of the grounds, the judge clearly directed himself that he should followed SMO (Article 15(c); identity documents) Iraq CG [2019] 400, whereas the more recent decision of SMO & KSP (Civil status documentation; article 15) Iraq CG [2022] clearly states that it replaced all earlier Country Guidance on Iraq. Further, it is evident from paragraph [31] of the decision that the judge did not properly address the issue of how identity documents could be obtained, and thus did not follow SMO [2022]. I am satisfied also that the judge erred when stating that he had not been directed to material which post-dated the previous determinations (see grounds at [2])

3. In the circumstances, the appeal will in effect have to be heard again and thus I am satisfied that it is in the interests of justice to remit it to the First-tier Tribunal for it to make a fresh decision.
4. Rule 40 (1) of the Tribunal Procedure (Upper Tribunal) Rules 2008 provided that the Upper Tribunal may give a decision orally at a hearing which I did. Rule 40 (3) provides that the Upper Tribunal must provide written reasons for its decision with a decision notice unless the parties have consented to the Upper Tribunal not giving written reasons. I am satisfied that the parties have given such consent at the hearing.

Notice of Decision

1. The decision of the First-tier Tribunal involved the making of an error of law and is set aside.
2. The appeal is remitted to the First-tier Tribunal for a fresh determination; none of the findings of fact are preserved.

Signed

Date: 7 June 2024

Jeremy K H Rintoul

Judge of the Upper Tribunal