



**Upper Tribunal
(Immigration and Asylum Chamber)**
PA/11884/2016

Appeal Number:

THE IMMIGRATION ACTS

Heard at North Shields

**Decision & Reasons
Promulgated**

On 21 November 2017

On 23 November 2017

**Prepared on 22 November
2017**

Before

DEPUTY UPPER TRIBUNAL JUDGE JM HOLMES

Between

**F. A.
(ANONYMITY DIRECTION MADE)**

Appellant

And

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Boyle, Halliday Reeves Law Firm

For the Respondent: Mr Diwnycz, Home Office Presenting Officer

DECISION AND REASONS

1. The Appellant claimed asylum having entered the UK unlawfully on 19 April 2016. That application was refused on 16 October 2016.

2. The Appellant's appeal to the Tribunal against that refusal was heard on 23 March 2017, and it was allowed on asylum and Article 3 grounds by decision of First tier Tribunal Judge Ruth promulgated on 7 April 2017.
3. The Respondent was granted permission to appeal by decision of First tier Tribunal Judge Ransley on 17 August 2017. That grant fails to analyse the grounds, and merely states that they are arguable.
4. The Appellant filed no Rule 24 notice. Thus the matter comes before me.

Error of Law?

5. Mr Diwnycz accepted that he was in some difficulty in advancing the grounds, which on any view are not well drafted.
6. The first ground complains that the Judge has made inconsistent findings; although an examination of the test of the decision discloses (as Mr Diwnycz accepted) that she did not. What appears to have led the draftsman to this challenge is the way in which the decision is phrased, but the grounds do not suggest that the wrong burden or standard of proof were employed. Although the Judge's approach could perhaps be clearer, she was seeking to employ the assessment of credibility discussed most recently in KS (benefit of the doubt) [2014] UKUT 552 in distinguishing between that which was plausible albeit unlikely, and that which was incredible and thus untrue.
7. Grounds two, three and four are complaints about the evaluation of the sufficiency of state protection, internal relocation, and the feasibility of return. These complaints do not however properly engage with the current country guidance, or, with the evidence from NGO reports that was before the Judge. It was open to her to conclude as she did that there was no sufficiency of state protection, and that the risk of harm (which she accepted existed) in the home area could not reasonably be avoided by internal relocation to Baghdad. What the grounds do not suggest, and which I infer was not argued before the Judge, was that the risk in the home area could be avoided by relocation to another city or province within the KRG.
8. Both parties were agreed that the Judge's approach in paragraph 41 of the decision was wrong, both in terms of the evidence before her, and the current country guidance. The Appellant had accepted that he had been lawfully issued with a legitimate passport when in Iraq. His was therefore a replacement passport situation,

using the centrally available passport records, rather than the situation of one who needed to be documented from the “family book” in circumstances where he denied knowledge of the details that would allow it to be identified. Return was therefore feasible, but nothing turns on that, since the appeal did not fall to be decided on humanitarian protection grounds.

9. In the circumstances I am satisfied that notwithstanding the grant of permission the grounds identify no arguable material error of law. The Judge’s decision to dismiss the appeal must therefore stand.

DECISION

The Decision of the First Tier Tribunal which was promulgated on 7 April 2017 did not involve the making of an error of law in the decision to dismiss the appeal that requires that decision to be set aside and remade. That decision is accordingly confirmed.

Deputy Upper Tribunal Judge JM Holmes
Dated 22 November 2017

Direction regarding anonymity - Rule 14 Tribunal Procedure (Upper Tribunal) Rules 2008

Unless and until the Tribunal directs otherwise the Appellant is granted anonymity throughout these proceedings. No report of these proceedings shall directly or indirectly identify him. This direction applies both to the Appellant and to the Respondent. Failure to comply with this direction could lead to proceedings being brought for contempt of court.

Deputy Upper Tribunal Judge JM Holmes
Dated 22 November 2017