



**Upper Tribunal
(Immigration and Asylum Chamber)**

Appeal Number: PA/08000/2017

THE IMMIGRATION ACTS

**Heard at Manchester
On 9th February 2018**

**Decision & Reasons Promulgated
On 28 February 2018**

Before

Upper Tribunal Judge Chalkley

Between

**JAMAL AHMAD
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: In person

For the Respondent: Mr C Bates, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant is a national of Iraq who was born on 18th July 1998. He appealed to the First-tier Tribunal against the respondent's decision set out in a letter dated 3rd August 2017, to refuse to grant him asylum. The appellant asserts that his removal from the United Kingdom would cause it to be in breach of its obligations under the Refugee Convention and, or in the alternative, would be unlawful under Section 6 of the Human Rights Act 1998 as being incompatible with the appellant's rights under the European Convention for the Protection of Human Rights and Fundamental Freedoms.

2. The appellant's appeal was heard by First-tier Tribunal Judge C Mather in Manchester on 18th September 2015. Having heard the appellant give oral evidence, the judge found the appellant not to be a credible witness. She found that he gave conflicting evidence as to the circumstances in which he sustained an injury to his elbow and the judge believed that were he to be telling the truth, such inconsistencies would not occur. She did not believe that the appellant's injuries impaired his functionality, noting that he was able to work on his own in Iraq and was able to undergo a twelve months' journey from Iraq to the United Kingdom. The appellant claimed that he was working in Iraq, only being given food and shelter and was forced to work, being passed around from employer to employer. However, the judge noted that according to the appellant's medical records, he smoked between 45 and 50 self-rolled cigarettes a day and had done so since the age of 13. The implication being that he was being paid, because he had enough money to spend on tobacco. She did not believe that this was compatible with the picture of abuse that he was seeking to portray.
3. The appellant claimed that he had walked to Turkey with many other people accompanied, by an agent and that took four weeks. She did not believe it to be credible that the agent did not require any payment from the appellant, because he knew of the appellant's circumstances. Neither did she accept that the appellant would have been given food by this agent or by fellow travellers for four weeks.
4. Similarly, she did not believe it to be credible that the appellant had encountered a Syrian family in a refugee camp and that they paid for his food and for his journey from Turkey, a journey lasting some twelve months, requiring different methods of transport and accommodation. She also repeated her reference to the appellant's medical records showing that he smokes between 45 and 50 cigarettes per day.
5. The appellant claimed that he did not know he was coming to the United Kingdom. The judge did not believe that to be credible either. He was fingerprinted both in Germany and in France.
6. The judge noted and applied *AA (Article 15(c)) Iraq CG [2015] UKUT 00544 (IAC)*. She accepted that it would be reasonable to expect the appellant to obtain a passport or laissez passer by the Iraqi Embassy in London, which would enable him to re-enter the country. She said that he had failed to demonstrate that he could not obtain a CIS within a reasonable timeframe, following his return to Iraq. This would, she noted, enable him to access social and financial assistance from the authorities and also to gain employment. She noted that there was no Article 15(c) risk to an ordinary civilian in the IKR. She did not believe the appellant was persecuted in Iraq or that he would face any future risk of persecution on his return.
7. She found that he had not discharged the burden on him to show that he had a well-founded fear of persecution for a reason recognised by the Geneva Convention or that he would face a real risk of serious harm by reference to paragraph 339C of the Immigration Rules. On the basis of the

facts established there was no reason to believe that his return would result in treatment in breach of Article 2 or 3 of the ECHR and she dismissed the appeal.

8. First-tier Tribunal Judge Chamberlain granted permission to appeal, believing it to be arguable that the judge had given insufficient consideration to the appellant's ability to obtain a CSID. She noted that the judge said that the appellant failed to demonstrate that he could not obtain one within a reasonable timeframe but gives no reason why he would be able to obtain one.
9. The appellant attended before me in person. I made sure that he and the interpreter both understood each other. The appellant confirmed to me that he had contacted the Red Cross to ask them to assist him in finding his brother and also his mother but, so far he had not heard anything. I explained that I was going to ask the Home Office representative some questions and that I would ask that the interpreter did not embark on a translation of the questions and answers while I was speaking to the Presenting Officer, because I wished to make sure that the appellant understood exactly what was going on. I explained that I would tell him afterwards what had transpired.
10. The Presenting Officer told me that the judge had made several adverse credibility findings in respect of the appellant, so that when the appellant claimed he had lost contact with his brother, and claimed at one stage that he was an orphan and at another that his mother was alive, it was open to the judge not to believe the appellant. The judge was entitled, therefore, to find that the appellant had not proved that there was no-one available in Iraq who could assist him in obtaining a CSID. In any event, the Home Office would not remove the appellant until they had obtained a travel document from the Iraqi authorities. Once a travel document had been obtained the appellant could apply for and obtain financial assistance if he chose to ask for it and be given an assisted return to Iraq, which would provide him with some funds on his return to Erbil in order that he could obtain a CSID and then look for employment.
11. I took the time to explain the Home Office position to the appellant at some length. The appellant told me that he understood. I explained to him that in the event that the Home Office were unable to obtain a travel document from the Iraqi authorities, he would not be removed from the United Kingdom. Mr Bates explained that provided the appellant co-operated in attempts to obtain a travel document, if it proved impossible to obtain a travel document from the Iraqi authorities in London, then there would come a time when the appellant may well be granted some form of leave, but in the meantime it would be necessary for the appellant to rely on Social Services. Having explained this to the appellant, he told me that he had some papers which he wanted me to look at. He explained that he had been to the Iraqi Embassy who had refused to offer him with a travel document. The documents he handed to me were documents from the Red Cross relating to his request for them to assist him with tracing his

mother and his brother, a translation of an Arabic document referred to as being a Unified Card – Smart Card and a statement from the appellant.

12. I had the papers copied for the Home Office Presenting Officer. They included a statement prepared on the appellant's behalf. The statement was written in English and indicated that it had been dictated to support his case at the hearing before the Upper Tribunal. The statement is as follows:-

- “1. I stated previously that I had never seen my mother, my father died when I was young and I was told about his death, I lost my younger brother when a family came to the cemetery where we were staying and they took him and I have never seen him since. I have an aunt and her husband but they kicked me out when I was young and as a result of their action I became homeless and people started using me and get not paid for works which I did.
2. I have approached British Red Cross in Manchester and they are trying to locate my mother (if she is still alive) or my younger brother.
3. Visiting the Iraqi Consulate on 31/01/2018 Wednesday: I have visited the Iraqi Consulate and sought their assistance in getting any Iraqi identity documents issued but despite the fact that I was interviewed by them extensively but it appeared that they cannot find any records of me like page and reference numbers. I have asked them to give me a letter to the Home Office but they declined and instead gave me a copy of some new instructions received from the Iraqi Government stating that CSID and nationality certificates should be renewed and get replaced by the Smart Card – Unified Card and then the individual will be able to apply for an Iraqi passport. So I am in difficult situation because I never had any Iraqi identity cards or nationality certificates let alone get them replaced.
4. I believe even if the Home Office able to issue laissez passer to me to deport me back to Baghdad Airport, I will be stuck in transit towards Erbil or Sulaimany Airport because with no IDs the KRG will not allow me to gain entry to IKR.
5. Thus, with no CSID or nationality certificate I would not be able to gain entry and even if I do I will not be able to secure employment, housing and food support from the government or receive medical assistance. As it was my situation in the past before leaving Erbil.
6. I did state previously in my documents that I have approached the authorities in Erbil before leaving Iraq and despite the fact they did not help me I was detained and left in limbo”.

13. The appellant told me he had nothing further to say. I told him that I would reserve my decision and that it would be sent to him shortly.

14. *AA (Iraq) v Secretary of State for the Home Department* [2017] EWCA Civ 944 explains that the CSID is an essential document for life in Iraq. It is for practical purposes necessary for those without private resources to access food and basic services and is not a document that can be automatically acquired after return to Iraq. Annex C of the judgment says this:-

- “9. Regardless of the feasibility of P's return it will be necessary to decide whether P has a CSID, or will be able to obtain one, reasonably soon after arrival in Iraq. A CSID is generally required in order for an Iraqi to access financial assistance from the authorities; employment; education; housing; and medical treatment. If P shows there are no family or other members likely to be able to provide means of support, P is in general likely to face a real risk of destitution, amounting to

serious harm, if, by the time any funds provided to P by the Secretary of State or her agents to assist P's return have been exhausted, it is reasonably likely that P will still have no CSID.

10. *Where return is feasible but P does not have a CSID, P should as a general matter be able to obtain one from the Civil Status Affairs Office for P's home governorate, using an Iraqi passport (whether current or expired), if P has one. If P does not have such a passport, P's ability to obtain a CSID may depend on whether P knows the page and volume number of the book holding P's information (and that of P's family). P's ability to persuade the authorities that P is the person named on the relevant page is likely to depend on whether P has family members or other individuals who are prepared to vouch for P.*
11. *P's ability to obtain a CSID is likely to be severely hampered if P is unable to go to the Civil Status Affairs Office of P's governorate because it is in an area where Article 15(c) serious harm is occurring. As a result of the violence, alternative CSA Offices for Mosul, Anbar and Saluhaddin have been established in Baghdad and in Kerbala. This evidence does not demonstrate that the 'Central Archive' which existed in Baghdad, is in practice able to provide CSIDs to those in need of them. There is, however, a National Status Court in Baghdad, to which P could apply for formal recognition of identity. The precise operation of this court is, however, unclear".*
15. The appellant was not found to be a credible witness by the judge who heard and saw him give evidence. She has given clear and logical reasons for her findings. In particular, she did not believe anything the appellant had said about his journey to the United Kingdom. He claimed to be destitute in Iraq and yet was transported by an agent to Turkey for nothing because the agent knew of the appellant's circumstances and was also fed by the agent on his journey. The appellant was also taken in by a Syrian family who, according to the appellant, paid for his journey to the United Kingdom via Germany and France. Given the judge's findings, I believe that she was entitled to find that the appellant had failed to demonstrate that he could not obtain a CSID within a reasonable timeframe following his return to Iraq. Based on her findings, the appellant must have paid the agent who took him out of Iraq and into Turkey and must have paid for his transportation to Europe. The appellant chose not to tell the truth when giving evidence to the judge.
16. Similarly, the judge was entitled to find that he had not suffered harm or ill treatment in the past such as to engage either the Refugee Convention or the EHCR and that there was no real risk of him suffering such harm or ill treatment in the future in Iraq.
17. I have concluded that in making her decision, First-tier Tribunal Judge Mather has not made a material error of law and I uphold her decision.

Summary.

The appellant's appeal on asylum grounds is dismissed. The appellant's appeal on humanitarian protection grounds is dismissed. The appellant's human rights appeal is dismissed.

Richard Chalkley

Upper Tribunal Judge Chalkley

Date 27 February 2018

TO THE RESPONDENT
FEE AWARD

The appeals have been dismissed and there is no question of payment of any fees.

Richard Chalkley
Upper Tribunal Judge Chalkley

Date 27 February 2018