



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

**Appeal Number: PA/01591/2018**

**THE IMMIGRATION ACTS**

**Heard at Manchester CJC  
On 21<sup>st</sup> February 2019**

**Decision and Reasons Promulgated  
On 13<sup>th</sup> March 2019**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE PARKES**

**Between**

**K A M  
(ANONYMITY DIRECTION MADE)**

Appellant

**And**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mrs L Butler (Solicitor, Fountain Solicitors)  
For the Respondent: Mr McVeety (Home Office Presenting Officer)

**DETERMINATION AND REASONS**

1. The Appellant's appeal against the refusal of his asylum claim was heard by First-tier Tribunal Judge Pacey at Birmingham on the 31<sup>st</sup> of July 2018. For the reasons given in the decision promulgated on the 15<sup>th</sup> of August 2018 the appeal was dismissed with the Judge rejecting the credibility of the Appellant's account of events in Iraq. Permission to appeal was sought on the basis that the Judge had not applied relevant country guidance cases when assessing the Appellant's return and internal relocation. Permission to appeal was granted on the basis that that was arguable.
2. There was no rule 24 response from the Home Office. It was observed by the Home Office that there was no challenge to the Judge's credibility findings but accepted that the Judge had erred in not applying the country guidance. For the Appellant it was submitted that the appeal should simply be allowed on humanitarian protection grounds.
3. Given the concession by the Home Office there was common ground that the decision contained an error of law which was material. There was reference in the hearing to there now being

evidence relating to the Appellant's mental state, however that was not relevant to the question of whether the Judge made an error although it could be relevant to the assessment to be made.

4. As the error is that the Judge did not effectively complete the decision-making process and with there being no challenge to the Judge's credibility findings I indicated at the hearing that the appeal should be remitted to Judge Pacey to complete the process. That would enable the Appellant to serve the additional medical evidence and to make submissions accordingly.
5. As the Judge rejected the core of the Appellant's account it would be open to the Judge to find that the Appellant had not shown that he either did not have a CSID or other relevant documentation or had not shown that he was unable to obtain it. That would inform the decision to be made in the application of the country guidance case relating to return and internal relocation. In remitting the case to Judge Pacey the Appellant is to serve any medical evidence to be relied on no later than 7 days before the next substantive hearing.

## CONCLUSIONS

The making of the decision of the First-tier Tribunal did involve the making of an error on a point of law in that the decision is incomplete.

I do not set aside the decision but remit the decision to First-tier Tribunal Judge Pacey to assess the Appellant's return to Iraq in the light of the applicable country guidance cases.

### Anonymity

The First-tier Tribunal made an order pursuant to rule 45(4)(i) of the Asylum and Immigration Tribunal (Procedure) Rules 2005.

I continue that order (pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008.)

Signed:



Deputy Judge of the Upper Tribunal (IAC)

Dated: 12<sup>th</sup> March 2019