



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

Appeal Number: PA/02377/2019

THE IMMIGRATION ACTS

**Heard at Field House
On 5th August 2019**

**Decision & Reasons Promulgated
On 14th August 2019**

Before

UPPER TRIBUNAL JUDGE MARTIN

Between

**MR
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr S Knight (instructed by Duncan Lewis & Co Solicitors)

For the Respondent: Mr E Tufan (Senior Home Office Presenting Officer)

DECISION AND REASONS

This is an appeal to the Upper Tribunal by the Appellant in this case in relation to a Decision and Reasons of Judge Geraint Jones QC in the First-tier Tribunal, promulgated on 23 April 2019 after a hearing at Hatton Cross on 10 April 2019.

The Appellant is a citizen of Iraq and had made a protection claim based on his having been targeted by ISIS for selling alcohol and being an atheist. He comes from an area of Kirkuk and said that he has no CSID and no means to get one.

The judge dismissed the appeal finding all aspects of the claim to be without credibility.

The grounds upon which permission to appeal was granted are very extensive, comprising 23 pages in all. The grounds principally rely on the judge's conduct of the hearing, which has in fact been the subject of a complaint. I have not been advised of the result of that complaint, nor have I been provided with a copy of the complaint but as I understand it the judge concerned has now retired.

I have been provided with a witness statement by counsel who represented the appellant before the First-tier Tribunal. That statement indicates that the judge made no effort to introduce himself or the representatives at the hearing nor did provide any introduction to the appellant or explanation of the procedure. His manner was aggressive and sarcastic during the course of the hearing and gave every impression of being biased against this appellant in particular and asylum seekers in general.

The Decision and Reasons itself, in the findings, is couched in rather intemperate language. The judge at paragraph 23, in his first finding, states that the appellant is willing to lie, and has lied, to procure the outcome that he desires, that is continued residence in this country. He goes on to say that he is entirely sure the appellant lied during cross examination. He suggests that the appellant changed his account during the course of the hearing, which on the basis of the evidence before the judge he clearly had not. The matter of his atheism, the judge said was raised at the hearing and for the first time only by counsel and not by the appellant. The asylum interview and the appellant's statement quite clearly refer to this and thus it is not true to say that it was raised by counsel.

The Decision and Reasons goes on to refer to the appellant lying about virtually every part of his claim and indeed the Decision and Reasons also refers to asylum seekers generally disposing of their identity documents to assist their case.

I am entirely satisfied on the basis of the grounds, the witness statement of counsel, Ms Blair and the contents of the Decision and Reasons itself that an impartial observer sitting in court at this hearing would have come to the conclusion that this appellant did not have a fair hearing. The Decision and Reasons itself gives the impression that this particular judge considers all asylum seekers to be liars. It may be that the appellant's claim may be found to be not credible but the terms in which the adverse credibility findings are couched in this Decision and Reasons does not give the impression of an impartial assessment of the evidence.

Mr Tufan did not seek to defend the Decision and Reasons. I therefore find, on the basis of fairness, that the Decision and Reasons is tainted by material errors of law and must be set aside in its entirety.

Given the fact that the entire case will need to be reheard and findings of fact made it is appropriate that it be remitted to the First-tier Tribunal for a full rehearing on all issues.

Notice of Decision

The appeal is allowed to the extent that the First-tier Tribunal's Decision and Reasons is set aside and the matter remitted to the First-tier Tribunal for a full rehearing.

Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008

Unless and until a Tribunal or court directs otherwise, the Appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify him or any member of his family. This direction applies both to the Appellant and to the Respondent. Failure to comply with this direction could lead to contempt of court proceedings.



Signed

Date 5 August 2019

Upper Tribunal Judge Martin