**Upper Tribunal**
**(Immigration and Asylum Chamber)** Appeal Number: PA/08945/2019

**THE IMMIGRATION ACTS**

| **Determined at Field House Without a Hearing** | **Decision & Reasons Promulgated** |
|---|---|
| **On 21 July 2020** | **On 18 August 2020** |

**Before**

**UPPER TRIBUNAL JUDGE PERKINS**

**Between**

**R M S**
**(ANONYMITY DIRECTION MADE)**

Appellant

**and**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

# DECISION AND REASONS

1. Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 I make an order prohibiting the disclosure or publication of any matter likely to lead members of the public to identify the Appellant. Breach of this order can be punished as a contempt of court. I make this order because the Appellant is an asylum seeker.

2. This is an appeal by a citizen of Iraq against the decision of the First-tier Tribunal dismissing his appeal against the decision of the Secretary of State refusing him international protection.

3. Permission to appeal was given by the First-tier Tribunal and on 1 May 2020 Upper Tribunal Judge Lane sent out a Note and Directions suggesting, inter alia, that the appeal is suitable for determination without a hearing.

4. The Procedure Rules do not entitle an appellant to a hearing but it is certainly the long-established custom of the Tribunal to determine appeals after a hearing has taken place. The difficulties created by the well-known COVID-19 pandemic include a considerable reduction in available hearing rooms so that it will be impracticable to determine all the appeals in the system with an oral hearing without some being subject to unconscionable delay which is obviously undesirable and contrary to the requirements of the Procedure Rules. Nevertheless I am obliged by paragraph 34 of the Tribunal Procedure (Upper Tribunal) Rules 2008 to have regard to any views expressed by the parties on the need for an oral hearing. As far as I can see neither party has specifically directed their minds to that point but in response to Upper Tribunal Judge Lane's Note and Directions the Appellant has produced "Further Submissions" following Tribunal directions and the Secretary of State has produced "Written Submissions" by Mr Ian Jarvis, Senior Home Office Presenting Officer and the Appellants have produced a Reply. I intend to take note of all the points made there.

5. I am satisfied that this is a case that can be dealt with adequately without an oral hearing and that in this case and any disadvantage to either party because there is a "paper hearing" is considerably outweighed by the advantage of quicker disposal and also the advantage of not delaying further other cases that may need an oral hearing. I am satisfied that it is right to determine this appeal without a hearing which is what I now set out to do.

6. By way of introduction and at the risk of oversimplification it is the Appellant's case that he cannot be returned safely to Iraq and because he ran off leaving behind him a daughter of a wealthy family who was pregnant as a result of his activities. Additionally, he claims he has lost his necessary identification documents so cannot be returned anyway. The First-tier Tribunal Judge, like the Secretary of State, did not believe him and the core issue before me is whether the judge's reasons for disbelieving the Appellant are sufficient to dispose of the appeal and if they are themselves lawful.

7. The judge began by noting that the Appellant was born in 2001 and so is still a young man.

8. In summary it was his case that he was in a relationship with a girl called Lezan who became pregnant by him. Lezan's family were connected with the Taliban and were powerful. Lezan's sister told the family what had happened and of the Appellant's role in it and he was afraid.

9. The judge noted it was the Secretary of State's case that the Appellant was not believable. The judge then gave copious self-directions, perhaps more than was really useful. There were then also long extracts from country guidance. But, starting at paragraph 34, there were clear findings.

10. The judge said unequivocally that he did not find the appellant's claim credible.

11. He made it plain that he was attaching only little weight to "minor discrepancies" in the narrative but he found it significant that the Appellant claimed on the one hand that his father wanted him punished and encouraged people to punish him but on the other hand arranged for his escape. This appears to be a reference to his answer to question 92 at interview where he said that when the family home was raided he understood his father to have said that he would disown the Appellant, his son, if he had done "some big mistake" and that if what they were saying was true they could find him and punish him in any way they wanted. This is the judge echoing the point made in the refusal letter at paragraph 42.

12. Why it should be assumed that the father's expression of disapproval made to irate members of a powerful family who had effectively invaded his home looking for the Appellant who the father knew was not there is a truthful expression of the father's feelings is not clear. If this were the only point taken I may be rather concerned about the decision.

13. The judge was concerned about inconsistencies in the oral evidence. The Appellant had told the judge that he had not had any contact with Lezan and that he had spoken to his paternal uncle once after he had arrived in the United Kingdom. He confirmed that his parents and siblings are in Iraq and said that the CSID (identification document) was at his parents' home. However he then stated that he did not ask his uncle to obtain the CSID because he was unsure if his father would give it to his uncle and went on to say that his father may have discarded it but he could offer no explanation for his father doing that and later changed his account to state he did ask his uncle and he told him that his father no longer had it. This was a contradiction of his earlier evidence and the judge found that damaging.

14. The Appellant also told the judge in his oral evidence that he was not threatened while he was in Iraq but according to the judge this contradicted the things said in his screening interview and in answer to question 4.1 at the asylum interview. The reference to question "4.1" must be a reference to the "Initial Contact and Asylum Registration Questionnaire" where he did say unequivocally "they threatened me a few days before I left Iraq". However, he went on to explain that "they" went to his home looking for him and to his school and they found his family. In answer to question 89 in the interview he said his uncle told him that "when they went to our family, they raided our family". He explained in answer to question 92 that the family home was raided when he could not be found and that led to the answer indicated above.

15. I am unsure why the judge found that the Appellant had claimed not to be threatened while he was in Iraq, and then said something inconsistent with it. As I read the evidence there was a threat and it was relayed to him through family members.

16. However, at paragraph 39 the judge found it significant the Appellant's family continued to live in Iraq without difficulty. The judge found their living peacefully odd in the light of the objective evidence of honour killings (if I may be permitted a convenient if hideously inappropriate term) and the claim that the girlfriend's family were powerful.

17. The judge considered Facebook postings which indicated that somebody called Lezan had been found a job by her well-connected family. The tone of the article is expressing surprise that she got the job that she did with the academic qualifications that she had.

18. I see no basis for criticising the judge's finding that there was nothing before him that linked the article with the "Lezan" said to be pregnant by the Appellant and the judge was entitled to find it surprising that the Appellant's girlfriend's allegedly powerful family would have found their daughter a job. The natural progression of the pregnancy would surely be expected to bring them disgrace.

19. The finding that the Appellant had not shown he did not have access to his CSID card is based on his general untruthfulness and particularly his inconsistent evidence about the whereabouts of the card. The judge decided that the Appellant had got his card but even if that were wrong he had contact with his family and a new card could be obtained.

20. That said the Grounds and Further Submissions are not helpful. In particular the Further Submissions clearly do not understand the Decision and Reasons. It is just wrong to say that the First-tier Tribunal Judge accepted that the Appellant had a relationship with someone called Lezan and left her pregnant. All the judge did was not discount the story because of minor inconsistencies or discrepancies. Similarly, the judge did not accept that the Lezan in the photograph in Facebook was the Lezan relied on by the appellant. He said unequivocally, as the Further Submissions recognise, is that the evidence "does not link Lezan to the Appellant". The judge however did indicate that Lezan's family were being supportive and that was not an indication that they were outraged.

21. The criticisms of the approach to the CSID card rather missed the point. The judge did not believe the Appellant and so little is said there about the importance of the card or what was claimed said to have happened at the embassy is of any value.

22. The Appellant suggests that the judge applied too higher standard of proof. This point is made better under (4) where the judge is criticised for not identifying the background material which supported his conclusion that the evidence that the person called Lezan had been found a job was inconsistent with the "objective evidence" about what would happen if the appellant's account was truthful. However this mystery can be resolved by reference to the refusal letter which refers to a Country Policy and Information Note Iraq Kurdish "Honour" Crimes of August 2018. This says that there are examples of honour crimes against men but the person at

risk is far more likely to be a woman. The difficulty for the Appellant here is that on his version of events the appellant is at risk but his lover is being supported. This is a point the judge was entitled to take.

23. For the reasons I have already given, some of the points taken by the judge do not seem to me to be weighty and I am doubtful that they are capable of being thought weighty. However, the finding that the conduct towards the alleged lover, if true, is inconsistent with the background material is explained and was open to the judge and it does undermine the credibility of the claim as a whole. Either the story about "Lezan" in the Facebook report is convenient and applies to somebody else and is irrelevant to the story or if, as could be the case, it is indeed the right Lezan then the Appellant's case depended on an unlikely outworking of the honour killing process and that is something to which the judge was entitled to give weight.

24. Looked at as a whole the decision is adequate and the reasons given do not undermine it to the point of making it irrational or otherwise unlawful.

25. I dismiss the appeal against the First-tier Tribunal's decision.

Jonathan Perkins

Signed
Jonathan Perkins
Judge of the Upper Tribunal

Dated 12 August 2020