



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

Appeal Number: PA/10793/2018

THE IMMIGRATION ACTS

**Heard at North Shields
On 20 March 2020**

**Decision & Reasons Promulgated
On 9 July 2020**

Before

UPPER TRIBUNAL JUDGE GLEESON

Between

**K M A (IRAQ)
(ANONYMITY ORDER MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms Marian Cleghorn of Counsel, instructed by Iris Law Firm solicitors

For the Respondent: Mr Miroslav Diwnycz, a Senior Home Office Presenting Officer

DECISION AND REASONS

Anonymity order

Pursuant to Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 (SI 2008/269) The Tribunal has ORDERED that no one shall publish or reveal the name or address of [initials] who is the subject of these proceedings or publish or reveal any information which would be likely to lead to the identification of him or of any member of his family in connection with these proceedings.

Any failure to comply with this direction could give rise to contempt of court proceedings.

1. The appellant appeals with permission against the decision of First-tier Judge O'Neill following a hearing at Bradford on 2 October 2019 dismissing his appeal against the respondent's decision on 29 August 2018 to refuse him international protection or leave to remain on human rights grounds.
2. The Article 8 ECHR appeal was withdrawn and the hearing before the First-tier Tribunal sounded only in international protection. No anonymity order was made by the First-tier Judge but given that this is an asylum appeal the Upper Tribunal hereby makes an anonymity order in this appeal.
3. The appellant has been in the United Kingdom since 2008. The First-tier Judge found in relation to his CSID documents that:
 - "45. Although there may be international flights to Erbil, according to the Country Guidance cases, the British government only makes returns to Baghdad. Therefore, I find that the appellant will be returned to Baghdad and thereafter will be obliged to make his way to the IKR. He cannot do so without a CSSID card.
 46. The Appellant claims to have no passport and no CSID. He had a nationality card which she says he left with his family in Iraq. Despite having a considerable amount of information relating to his family ID records he has made no attempt at all to replace is documents.
 47. Judge Holmes found that the appellant had a large family comprising seven brothers and four sisters remaining somewhere in Iraq. The appellant has led no evidence to suggest they do not remain in Iraq. He claims not to be in contact with his family but I do not believe him. I note that when his father died steps were taken to ensure that the appellant was notified in the manner conventional to Kurds and that Mr Othman and another Kurd were designated to notify the appellant. I find it simply incredible that despite this there is no contact between those in the UK and the appellant's family in Iraq.
 48. The appellant has produced the death certificate of his father dated November 2013 and the ID of his mother dated 7 January 2014. These documents were supplied to him by family members in Iraq. I find it incredible that having secured this documentation he is not able to secure his own CS ID documents. I do not believe him.
 49. His mother's ID documents bears the registration number 366 and the page number 73014. His father's death certificate also contains the details of the relevant registry (366) and page number 73014. Given that the appellant is in possession of the registry number and page numbers relating to his family records I do not accept that he would be unable to secure a copy of his own CS ID either through the central machinery in Baghdad or through his family contacts.

50. In the circumstances I find that even if the Appellant has no CSID card he has a reasonable prospect of obtaining one.”

4. The First-tier Judge found that the appellant was an ordinary citizen of Kurdish ethnicity and that although he could not return to his home village and was in need of humanitarian protection because he comes from Tuz Khurmatu, he could relocate to the IKR. At [47]-[49], the Judge found that the appellant remained in contact with his extended family, comprising his mother, his seven brothers and four sisters, who are still in Iraq and that they at least knew where to find him in 2013 and 2014 and probably still do.
5. The First-tier Judge held that the appellant could not exercise an internal relocation option to Baghdad or elsewhere in Arab-controlled Iraq because he was without support there and did not have the wherewithal to survive alone away from his home area or the IKR. The appeal was dismissed on asylum and humanitarian grounds and by way of precaution also under Article 8 ECHR.
6. The appellant appealed to the Upper Tribunal.

Grounds of appeal

7. The appellant contended that the First-tier Judge failed properly to apply the Upper Tribunal’s Iraq country guidance in [*AAH* (Iraqi Kurds - internal relocation) (CG) [2018] UKUT 212 (IAC)]. The grounds limit themselves to a bare joinder of issue on this point.
8. The main thrust of the grounds of appeal is a challenge to the First-tier Judge’s findings of fact and credibility, with which the Tribunal can interfere only if the test in *R (Iran) & Ors v Secretary of State for the Home Department* [2005] EWCA Civ 982 is met. At paragraphs [6] and [7] of the grounds, the appellant asserts that he would have difficulty in securing employment in the IKR and indeed the grounds of appeal read as though that was his principal concern.
9. At [9], the grounds assert that the appellant if returned would be unable to earn a sufficient and regular income to enable him to lead a ‘relatively normal life’, relying on *AAH* at [131] since he has been absent from Iraq for eleven years, has no recent work experience (presumably in either country), and no family connections in the IKR to assist him in securing employment or to vouch for him.
10. The grounds submit that internal relocation would be unduly harsh, because the appellant has a western appearance, increasing suspicion if he tries to secure employment in the IKR, and that he will be an internally displaced person (IDP) and destitute.

Permission to appeal

11. Permission to appeal was granted on the following basis:

“It is arguable that the judge’s findings in relation to relation to the IKR are speculative and fail to take into account the lapse of time since the appellant was able to obtain documents from his family in Iraq.

The judge found the appellant credible in some aspects of his appeal where he had previously been found incredible and having done so failed to consider how that impacted on the appellant’s claim that he is not in contact with his family members and does not know where they are.

There was no evidence before the judge in relation to the whereabouts of the appellant’s family members and the finding that they may be in the IKR is therefore entirely speculative.”

Analysis

12. Having regard to the First-tier Tribunal Judge’s decision at [45]-[52], I considered first whether *AAH* availed the appellant, as at the date of hearing. The passage relied upon by this appellant in *AAH* is at [131]-[132]:

“131. Whilst a meagre income may not be sufficient to radically improve an individual's living conditions, the connection between food and dignity is an obvious one. Decision-makers must assess whether an individual is likely to have any kind of income at all, and if so whether that income would be sufficient to provide a 'relatively normal life' in the context of Iraq, and having regard to that individual's personal history.

132. For those with no realistic prospect of securing a regular income, or support by other means, internal relocation to the IKR is likely to be unduly harsh. Although we were shown no evidence of IDPs starving, it is clear that food security would be extremely poor, with such an individual entirely reliant upon charity and ad hoc humanitarian intervention. Whilst organisations such as WHO and the UNHCR are active in providing food within the camps, we were not directed to any evidence to show that such organisations are regularly providing food 'on the street'. Rather the support offered would appear to be the provision of 'emergency' items such as blankets and jerry cans.”

13. Unless the appellant could show that the First-tier Judge’s finding that he does have contact with at least some of his family members is perverse, *Wednesbury* unreasonable, or incomprehensible at an *R (Iran)* level, that finding is fatal to his assertion that he become an IDP in circumstances which would be unduly harsh as contemplated in *AAH*.

14. The appellant has not shown that he cannot replace his missing CSID. *AAH* has now been replaced by *SMO, KSP and IM (Article 15(c) identity documents) Iraq CG [2019] UKUT 00400 (IAC)* which finds that persons with the sort of documentation that the appellant possesses would be able to obtain a replacement CSID from the Iraqi Embassy in London. At the date of the hearing before the First-tier Tribunal the appellant had not tried to do so.

15. Ms Cleghorn's instructions were that the appellant had subsequently made some effort to replace his CSID, but there was no evidence before the Tribunal to that effect and no evidence from the Iraqi Embassies in Manchester and London which he claimed to have approached.
16. The grounds of appeal do not identify any evidence which the judge is said to have overlooked in reaching his conclusions of fact and credibility, nor any matter which was not taken into consideration, which would entitle the Upper Tribunal to interfere with findings of fact, having regard to the guidance of the Court of Appeal in *R (Iran)* at [90] in the judgment of Lord Justice Brooke (with whom Lord Justice Chadwick and Lord Justice Maurice Kay agreed).
17. There is nothing in these grounds of appeal which identifies an arguable error of law in the decision of the First-tier Tribunal Judge. This appeal is accordingly dismissed.

Signed: [Judith AJC Gleeson](#)

Dated: 2 July 2020

Upper Tribunal Judge Gleeson