



**Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: PA/04861/2019**

THE IMMIGRATION ACTS

**Heard at Bradford
On 25 June 2021**

**Decision & Reasons
Promulgated
On 13 July 2021**

Before

UPPER TRIBUNAL JUDGE LANE

Between

**HB
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms Hashmi

For the Respondent: Mr Bates, Senior Presenting Officer

DECISION AND REASONS

1. The appellant is a citizen of Iraq who was born in 1983. He appealed to the First-tier Tribunal against a decision of the Secretary of State made on 3 May 2019 dismissing his international protection and human rights claim following the making of a deportation order. Upper Tribunal Judge Canavan, in a decision promulgated on 19 November 2019, found that the decision of the First-tier Tribunal dated 28 August 2019 should be set aside. There has been a substantial delay in listing the resumed hearing as a result of the coronavirus pandemic.

2. At the resumed hearing, which took place face to face at Bradford on 25 June 2021 with the Presenting Officer, Mr Bates, appearing via video link, I told that the parties that I intended to allow the appeal against the Secretary of State's decision and gave my reasons. I shall, therefore, be brief in reiterating those reasons now.
3. I heard evidence from the appellant who spoke in Kurdish Sorani with the assistance of interpreter. The burden of proof remains on the appellant. The standard of proof is whether there are substantial grounds for believing that the appellant would be at real risk of persecution or ill treatment contrary to Article 3 ECHR if returned to Iraq.
4. The parties accept that the appellant has been in the United Kingdom since 2001. He told me that he lost contact completely with his family in Iraq some years ago. Notwithstanding that the appellant had been found by a previous Tribunal (in 2004) to have been untruthful, I accept that, after a very considerable lapse of time (20 years), the appellant is no longer in touch with his close family. I accept that the appellant is also not in touch with members of his wider family although it is possible he might, with some effort, establish contact with them.
5. The protection appeal turns on whether the appellant (who has no currently valid travel or identity documents with him in the United Kingdom) could re-document himself so that he would be able to access the Kurdish region of Iraq from Baghdad (whither he will be returned) so as to avoid suffering conditions which would breach Article 3 ECHR (see *SMO, KSP and IM (Article 15(c); identity documents)* Iraq CG [2019] UKUT 400). The background material indicates that, in the appellant's home area of Iraq, a new identity document (the INID) is replacing the CSID. To obtain an INID, the appellant needs to be physically present at a registration centre in order to provide biometric information. The country guidance clearly shows that he cannot, without identity documents, safely reach his home area from Baghdad. Mr Bates submitted that some registration centres may be still be issuing CSID and that distant family members might help him to re-document. I find that submission fails when submitted to the test of reasonable likelihood. It is not reasonably likely either that the appellant would be able to find a centre which continues to issue CSIDs whilst I do not accept that he would be able to contact and then persuade a non-close family member to go to the considerable trouble of obtaining a CSID and sending it to the appellant in the United Kingdom. Without a CSID in his possession before he enters Baghdad, the appellant would be exposed to risk. For that reason, I find that his Article 3 ECHR appeal must be allowed.

Notice of Decision

The appellant's appeal against the decision of the Secretary of State dated 3 May 2019 is allowed on human rights (Article 3 ECHR) grounds. It is dismissed on all other grounds.

Signed
Upper Tribunal Judge Lane

Date 30 June 2021

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

Unless and until a Tribunal or court directs otherwise, the appellants are granted anonymity. No report of these proceedings shall directly or indirectly identify them or any member of their family. This direction applies both to the appellants and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.