



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2022-002914
First-tier Tribunal No:
PA/01289/2021

THE IMMIGRATION ACTS

**Decision & Reasons Issued:
On 19 April 2023**

Before

UPPER TRIBUNAL JUDGE MANDALIA

Between

**CK
(ANONYMITY DIRECTION MADE)**

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: **Mr V Madanhi, CB Solicitors**

For the Respondent: **Mr F Gazge, Senior Home Office Presenting Officer**

Heard at Birmingham Civil Justice Centre on 22 December 2022

Order Regarding Anonymity

Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, the appellant (*and/or any member of his family,*) is granted anonymity.

No-one shall publish or reveal any information, including the name or address of the appellant, likely to lead members of the public to identify the appellant (*and/or any member of his family*). Failure to comply with this order could amount to a contempt of court.

DECISION AND REASONS

1. The appellant is a national of Iraq. He arrived in the UK on 9th November 2006 and claimed asylum the following day. The claim was refused on 30th

November 2006. The appellant did not lodge an appeal against that decision. His claim for international protection was renewed when he made an application for discretionary leave to remain and/or humanitarian protection on 26th April 2017. The application was refused on 25th October 2017. The appellant's appeal against that decision was dismissed by First-tier Tribunal Judge Moore for reasons set out in a decision promulgated on 29th May 2018. On 12th October 2019, the appellant made further submissions to the respondent. The claim made by the appellant was refused by the respondent but that decision gave rise to a right of appeal. The appellant's appeal was dismissed by First-tier Tribunal Judge Dixon for reasons set out in a decision promulgated on 25th April 2022.

2. The appellant claims that the finding made by Judge Dixon, at paragraph [61] of his decision rejecting the appellant's claim that he lost his CSID card and identity documents during his journey to the UK, is irrational, and without adequate explanation. The appellant claims Judge Dixon failed to have regard to the fact that a person can be lying about one aspect of their claim, but still be telling the truth about another part of the claim. The appellant claims that in reaching his decision, Judge Dixon failed to have regard to the relevant country guidance set out in SMO, KSP & IM (Article 15(c); identity documents) Iraq CG [2019] UKUT 004100 (IAC) ("SMO & Others I") and SMO & KSP (Civil status documentation; article 15) Iraq CG [2022] UKUT 00110 (IAC) ("SMO & Others II"). The appellant claims Judge Dixon has not made a finding as to whether the appellant has a CSID card or can obtain the card or to consider how the appellant would be able to obtain his CSID card.
3. Permission to appeal was granted by First-tier Tribunal Judge Gibbs on 20th May 2022. She said:

"The grounds of appeal are focused solely on the judge's decision pertaining to whether the appellant has or could obtain a CSID card. Having considered the decision as a whole, and taking into account the most recent country guidance on this issue SMO & KSP (Civil status documentation; article 15) Iraq CG [2022] UKUT 110 (IAC) I am satisfied that there is an arguable error of law."
4. At the outset of the hearing before me, Mr Madanhi confirmed the appellant does not challenge the finding made by Judge Dixon that the appellant has not established a well-founded fear of persecution on the basis of fear from Mr Khalid's family. The sole issue in the appeal before me is the judge's findings and reasons concerning the appellant's CSID card.

5. Mr Madanhi submits Judge Dixon did not make any specific findings regarding the evidence of the appellant that he had lost his CSID on his way to the UK. At paragraph [65], Judge Dixon simply took a blanket approach rejecting the appellant's account of events. He submits Judge Dixon did not accept the appellant is credible regarding his asylum claim and he appears to proceed upon the basis that the appellant's account regarding his CSID is therefore also not credible. Mr Madanhi submits that at paragraph [27], Judge Dixon refers to the evidence of the appellant regarding his CSID. At paragraph [65] Judge Dixon explains that in light of his findings regarding the appellant's credibility, he rejects the appellant's claim that he does not have a CSID card and finds the appellant could return to Iraq and that documentation would not be a problem for him. Mr Madanhi submits the explanation provided by the appellant is not adequately considered by Judge Dixon and the reasons given are "dry and without substance". The judge does not give a proper explanation for rejecting the account. The appellant has maintained throughout that he does not have a CSID. Mr Madanhi submits that contrary to the findings of Judge Dixon, the appellant's brother would not be able to obtain an ID card for the appellant.

6. In reply, Mr Gazge submits the appellant is from Sulaymaniyah in the IKR. At paragraphs [47] and [48] of his decision Judge Dixon refers to SMO I. Mr Gazge submits the availability of the appellant's CSID was adequately addressed by Judge Dixon. At paragraph [62] Judge Dixon refers to the appellant being evasive when answering questions. He submits it was open to Judge Dixon to find that the appellant is not a credible witness and to reject the appellant's claim that he does not have a CSID card for the reasons given. In any event, Judge Dixon noted the appellant has been provided with copies of his relatives' CSID cards and he would therefore have the relevant information available to him, with support from family members, to assist in the redocumentation process if that is necessary.

Decision

7. A party appearing before a Tribunal is entitled to know, either expressly stated by it, or inferentially stated, what it is to which the Tribunal is addressing its mind. The appellant is entitled to know the basis on which the conclusions reached by Judge Dixon as to the appellant's CSID and redocumentation has been reached. I am mindful of the reminder, in Low v SSHD [2021] EWCA Civ 62 by McCombe LJ, at paragraph [29], that appellate courts should exercise caution when interfering with evaluative decisions of first instance judges.

8. I reject the appellant's claim that the finding made by Judge Dixon at paragraph [61] of his decision, rejecting the appellant's claim that he lost his CSID card and identity documents during his journey to the UK, is irrational, and without adequate explanation. At paragraph [27] of his decision, Judge Dixon refers to the evidence of the appellant regarding his contact with his family and the explanation provided by the appellant that he had taken his ID documents with him when he left Iraq, and lost them on the way to the UK. The appellant's claim is addressed at paragraph [61] of the decision. Judge Dixon said:

"He claimed to have lost his CSID and identity documents in the journey to the UK. His initial answer to how this had happened was to simply avoid the question but, when I pressed him on it, he said that he had those documents in his jacket which he had hung on a tree when he needed to dry it out and that he had left that jacket behind when the people he was travelling with had to move on very quickly. I do not accept this to be a credible explanation at all."

9. The appellant's general claim that Judge Dixon failed to give adequate reasons is without merit. I have reminded myself of what was said in MD (Turkey) v SSHD [2017] EWCA Civ 1958 that adequacy means no more nor less than that. It is not a counsel of perfection. Still less should it provide an opportunity to undertake a qualitative assessment of the reasons to see if they are wanting, even surprising, on their merits. The purpose of the duty to give reasons, is in part, to enable the appellant to know why he has lost, and it is also to enable an appellate court or Tribunal to see what the reasons for the decision are, so that they can be examined in case there has been an error of approach. The evidence before the Tribunal in this respect was limited to the oral evidence of the appellant. It was in my judgment adequate for Judge Dixon to find that the appellant's explanation regarding his CSID is not credible for the reasons that he gives, albeit brief. Judge Dixon clearly considered the appellant's account and reached a finding that was open to him on the evidence before the Tribunal.
10. There is equally no merit in the appellant's claim that Judge Dixon failed to have regard to the fact that a person can be lying about one aspect of their claim, but still be telling the truth about another part of the claim. The task of the Judge was to make findings of fact based upon the evidence available to the Tribunal. It is now well established that a Court or Tribunal must be vigilant to avoid the fallacy that adverse credibility findings or conclusions on one issue are determinative of another. I accept, as Mr Madanhi submits, that if the appellant has lied about one matter, it does not follow that he has lied about everything. The First-tier Tribunal is a specialist Tribunal and the Judge is well versed in dealing with such claims. Although a 'Lucas Direction' in the form set out by Lord Lane

in R v Lucas [1981] QB 720 is not expressly set out in the decision of the First-tier Tribunal, there is nothing in the decision of Judge Dixon that indicates that he rejected the appellant's claim regarding his CSID because the appellant had not been found to be credible regarding the core of his claim. Judge Dixon explained, at [61] why he found the appellant's claim to have lost his CSID and identity documents not to be credible.

11. It is common ground that the appellant is from Sulaymaniyah in the IKR. Although not referred to in the decision of Judge Dixon, SMO II was published by the Upper Tribunal on 22nd April 2022, three days before the decision of Judge Dixon was promulgated. As set out in headnote B(7) of SMO II, the return of former residents of the IKR will be to the IKR and all other Iraqis will be to Baghdad. As such the appellant will not be required to cross any borders such as those that exist between the area controlled by the Iraqi government and the IKR. In Part C of the headnote in SMO II, the Tribunal confirmed the CSID is being replaced with a new biometric INID and that it is necessary for an individual to have one of these two documents in order to live and travel within Iraq without encountering treatment or conditions which are contrary to Article 3 ECHR. The Tribunal said:

“13. Notwithstanding the phased transition to the INID within Iraq, replacement CSIDs remain available through Iraqi Consular facilities but only for those Iraqi nationals who are registered at a CSA office which has not transferred to the digital INID system. Where an appellant is able to provide the Secretary of State with the details of the specific CSA office at which he is registered, the Secretary of State is prepared to make enquiries with the Iraqi authorities in order to ascertain whether the CSA office in question has transferred to the INID system.

14. Whether an individual will be able to obtain a replacement CSID whilst in the UK also depends on the documents available and, critically, the availability of the volume and page reference of the entry in the Family Book in Iraq, which system continues to underpin the Civil Status Identity process. Given the importance of that information, some Iraqi citizens are likely to recall it. Others are not. Whether an individual is likely to recall that information is a question of fact, to be considered against the factual matrix of the individual case and taking account of the background evidence. The Family Book details may also be obtained from family members, although it is necessary to consider whether such relatives are on the father's or the mother's side because the registration system is patrilineal.”

12. At paragraph [65] of his decision, Judge Dixon rejected the appellant's claim that he does not have a CSID card and found that he could return to Iraq. He went on to explain that in any event, even if the appellant does not have his CSID card, his evidence was that his father had sent him copies of his relatives' CSID cards, and the appellant would therefore be

able to obtain relevant details of the family book and would be able to grant authority, either for his brother who has been able to go to Iraq himself and obtain a new Iraqi passport, or his second cousin who remains in Iraq, in order for either of those family members to assist him in the documentation process.

13. It is clear there was evidence before Judge Dixon upon which he was entitled to rely, that the appellant's family would have relevant information and documentation that would allow the appellant to obtain a replacement CSID in the UK, if that is necessary. On any view, the Family Book details that may be required by the appellant can be obtained from the appellant's paternal family members. Simply put, on the findings made by Judge Dixon, it is clear that the relevant information could be obtained from the appellant's father, brother or cousin.
14. It is clear therefore that on any view, the appellant the appellant will have or be able to obtain appropriate documents to facilitate his return to the IKR without the appellant having to travel from Baghdad to the IKR. That is either because the appellant has his CSID or because the relevant information could be obtained from the appellant's paternal family so that the appellant will be able to obtain a replacement CSID whilst in the UK through Iraqi Consular facilities. The failure to refer to SMO II is therefore immaterial.
15. It is now well established that it is necessary to guard against the temptation to characterise as errors of law what are in truth no more than disagreements about the weight to be given to different factors, particularly if the judge who decided the appeal had the advantage of hearing oral evidence. It is in my judgement clear that in reaching his decision, Judge Dixon considered all the evidence before the Tribunal in the round and reached findings and conclusions that were open to him on the evidence. A fact-sensitive analysis of the appellant's access to a CSID or ability to redocument himself was required. In my judgement, the findings made and conclusions reached by Judge Dixon were rooted in the evidence before the Tribunal. Here, it cannot be said that the Judge's analysis of the evidence is irrational or perverse. The Judge did not consider irrelevant factors, and the weight that he attached to the evidence either individually or cumulatively, was a matter for him. I am satisfied that Judge Dixon's decision is a sufficiently reasoned decision that was open to him on the evidence. The decision is to be read looking at the substance of the reasoning and not with a fine-tooth comb in an effort to identify errors. In my judgment, the grounds of appeal do not disclose a material error of law capable of affecting the outcome of the appeal.

16. It follows that in my judgment, there is no material error of law in the decision of Judge Dixon and I dismiss the appeal.

Notice of Decision

17. The appeal is dismissed.

V. Mandalia

Upper Tribunal Judge Mandalia

Judge of the Upper Tribunal
Immigration and Asylum Chamber

12th April 2023