



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

Appeal Number: AA/00706/2014  
AA/00707/2014

**THE IMMIGRATION ACTS**

**Heard at Manchester  
On 24<sup>th</sup> May 2016**

**Determination Promulgated  
On 3<sup>rd</sup> June 2016**

**Before**

**UPPER TRIBUNAL JUDGE COKER**

**Between**

**AMNA JASSIM MOHAMMED AL-JOBOORI  
RAFAL MONTHIR MOHMOUD AL HASHIMI  
(Anonymity order not made)**

Appellant

**And**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr J Nicholson, counsel, instructed by Greater Manchester  
Immigration Aid Unit

For the Respondent: Ms C Johnstone, Senior Home Office Presenting Officer

**DETERMINATION AND REASONS**

1. The appellants – who are mother and daughter – first arrived in the UK as visitors in early 2011. Between 9 September 2013 and 28 September 2015 they

were granted extended periods of leave to remain. The first appellant's husband had also travelled to the UK. In the instant appeal, and in an earlier appeal, he is a dependant of the first appellant. An earlier asylum appeal in 2011 had been dismissed by the First-tier Tribunal; permission to appeal had been granted by the Upper Tribunal and the respondent subsequently withdrew the decision the subject of that appeal and the appellants (and the husband/father) were granted leave to remain. The last period of leave granted was discretionary leave between January 2013 and September 2015 (that has now been extended until 2017). They were refused asylum/humanitarian protection in decisions dated 21<sup>st</sup> January 2014 for reasons set out in letters dated 15<sup>th</sup> January 2014.

2. Although their claims are not identical their cases have been linked because of the familial relationship and Tribunal decisions have considered and reached decisions on both cases in one decision. Their appeal against the decision of 21<sup>st</sup> January 2014 was heard by the First-tier Tribunal on 25<sup>th</sup> July 2014 and, in a decision promulgated on 27<sup>th</sup> January 2015, dismissed. The delay in promulgation arose because of various procedural issues.
3. Permission to appeal was granted on the grounds that it was arguable
  - (i) there was a contradiction in the judge's findings in saying there had been no problems for the family in Kerada and yet there had been a kidnapping attempt there thus rendering the factual matrix upon which the decision was taken unsafe;
  - (ii) there had been a failure by the judge to consider risk on return as a mixed faith family; and
  - (iii) a failure to consider internal armed conflict despite these issues being directly addressed by Dr George in his expert opinion.

#### Ground 1

4. Although Ms Johnstone submitted there were no inconsistencies in the decision when read as a whole and that the findings overall were adequate and neither perverse nor irrational, the appellants referred to [70] and [74] of the decision which specifically refers to the family moving to Kerada and that there had been no incidents whilst they were there. [69] refers to an attempted kidnap in Kerada. The judge does not make a finding on whether the attempted kidnap took place or whether it was targeted or criminality. These issues are canvassed in the decision but no actual conclusion is reached. [65] of the decision tails off with an uncompleted sentence about sectarian violence.
5. I cannot be satisfied that the judge had made reasoned findings that the kidnap attempt did not occur and therefore the finding that there were no adverse incidents in Kerada was sustainable. There is a material error of law by the judge.

#### Ground 2 and 3

6. Ms Johnstone accepted there was no reference in the decision to the issue of mixed faith marriage or the potential consequences on return.

7. There has been no engagement by the judge with Dr George's report or the personal profiles of the appellants either in terms of return to Baghdad or in terms of humanitarian protection.
8. The judge has erred in law in failing to address the appeal grounds relied upon by the appellants and failed to engage with the background material, including the expert report of Dr George.

#### Conclusion

9. On reading the First-tier Tribunal decision it does appear that the decision promulgated may have been a draft. This judge is an experienced judge who would not usually fail to consider expert evidence, fail to finish paragraphs and omit consideration of the appeal grounds as relied upon by appellants. I am satisfied that none of the findings can be relied upon and, regrettably given the lengthy process that these appellants have already endured, this appeal is to be remitted to the First-tier Tribunal for a fresh decision.
10. There are errors of law in the decision of the First-tier Tribunal such that it is to be set aside, no findings preserved.

#### Consequential Directions

To be remitted to the First-tier Tribunal to be heard by a judge other than Designated Judge McClure or First-tier Tribunal Judge M Davies.



Date 2<sup>nd</sup> June 2016

Upper Tribunal Judge Coker