



**Upper Tribunal
(Immigration and Asylum Chamber)
PA/09048/2016**

Appeal Number:

THE IMMIGRATION ACTS

**Heard at Glasgow
Reasons Promulgated
On 28th July 2017
September 2017**

**Decision &
On 7th**

Before

DEPUTY UPPER TRIBUNAL JUDGE FARRELLY

Between

**MR.HAS
(ANONYMITY DIRECTION MADE)**

Appellant

And

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr. Winton, Counsel, instructed by Latta and Co, Solicitors
For the Respondent: Mr.S.Kotas, Home Office Presenting Officer

DETERMINATION AND REASONS

Introduction

1. The appellant made a claim for protection which was refused on 12 August 2016. His appeal against that decision was heard by Judge of the First-tier Tribunal Agnew who, in a decision promulgated on the 23 March 2017, dismissed his appeal.
2. The basis of his claim is that he is an Iraqi Kurd who lived in the Salah Al-din Province. He account was that he, along with some close friends, were promoting secular views .This led to them being accused of insulting Islam and a fatwa was issued. The appellant and his family moved to his uncle's house shortly before their own home was set on fire

by a crowd. Following this, the appellant decided to leave the country. The respondent did not believe his account.

3. He said he was from a contested area which was accepted. Although he could not be returned to his home area the respondent took the view he could relocate within the Iraqi Kurdish region.

The First tier Tribunal

4. First-tier Tribunal Agnew also did not find his account credible. She recorded that the appellant had a CSI D before he left Iraq and had not demonstrated he could not obtain this from his family or obtain sufficient information to get a replacement. He also had not demonstrated he could not obtain a passport. She referred to him being young, fit, and healthy and on his account had been able to establish a business in his home area from a young age. She concluded he could do this again in the I KR and was someone with initiative and business skills. He had not demonstrated to her satisfaction that there was no support available. Furthermore, he would have access to the assisted return scheme. She noted he had significant funds when he left Iraq.
5. Permission to appeal was granted on the basis it was arguable the judge had not given adequate reasons or findings about either his possession of or ability to acquire a CSID and about his ability to travel to the I KR.
6. Mr Winton contended that First-tier Tribunal Agnew did not correctly apply the guidance in AA(Article 15 (c) Iraq CG [2015] UKUT 00544 about the conditions for entry into Baghdad or the I KR. He submitted that if the appellant were granted a laissez-passer this would not entitle him to gain admission to the I KR. I was referred to the appellant's statement and he submitted nothing indicated he would have the means to get replacement documentation. Mr Winton questioned therefore how he could get to Baghdad or if he could, how he could travel onwards to the IKR.
7. In response, Mr.S.Kotas pointed out there had been no challenge to the negative credibility findings made by the judge. Consequently, his account of not having any contacts could not be relied upon.

Consideration

8. The bulk of First-tier Tribunal Agnew's decision is concerned with the claim of the appellant about events he said happened to him in his home area. She rejected his claims and gave reasons. No challenge has been made to those findings.
9. It is only at paragraphs 36 to 38 that she considers the question of return. She recorded that the appellant's evidence was that he had a CSI D before he left Iraq. The submission on his behalf was that he could not obtain documentation. The judge rejected this, pointing out it had not been established he could not through his family or friends obtain the

documentation he had or else obtain replacements. In the same way, she did not accept it was established he could not obtain a passport.

10. There are flights from the United Kingdom to Baghdad. From Baghdad there are flights to Erbil. Access can also be gained through third countries. The practicalities of travel are a matter for the respondent after the appeal is over. A laissez-passer is the document that it is issued by the Iraqi authorities in the UK for the return of a national.
11. It is sufficient for the respondent to demonstrate a general mechanism for return. The nature of a laissez-passer is that it is issued by the Iraqi authorities here to facilitate return. If this is taken from the appellant on arrival at Baghdad airport the country guidance case is silent as to the need for documentation for onward travel within the country. I was not referred to any evidence that further documentation is required for travel within Iraq. The onus is not on the respondent to prove in each case what documents are required to board an internal flight from Baghdad to the IKR. Nor does she have to show that the appellant has them or can access them. Paragraph 170 of the County Guidance case was a discussion on internal relocation which does not make its way into the head note. The Court of Appeal's comments on para 170 (AA (Iraq) [2017] EWCA Civ 944) does not affect my conclusion as I find he would be entitled to a laissez-passer.
12. Whether a Kurd if returned to Baghdad can be expected to avoid undue hardship will be dependent on the individual circumstances. The judge recorded that the appellant had demonstrated initiative and business skills in the past and that he had family support in the country. He would also have the benefit of the returns package. The emphasis however was that he could relocate to the IKR. The judge had indicated basic features indicating this would not be unreasonable. Each case has to be considered on its merits. Sometimes the evidence is limited. Here the appellant had described how he had employment. The judge commented on general features about him. This is due to the general nature of the evidence before the judge. The decision elsewhere has been carefully prepared and displays a proper analysis of the evidence. The underlying claim was rejected on a sound basis and this has not been challenged. The only query relates to return. I found the judge has given basic but adequate reasons. The appellant has not provided evidence to suggest the situation is otherwise. In conclusion therefore I find no material error of law established.

Decision

No material error of law has been established in the decision of First tier Judge Agnew. Consequently, that decision dismissing the appellant's appeal shall stand.

Signed

Deputy Upper Tribunal Judge Farrelly
September 2017

Dated 6th