



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

Appeal Numbers: PA/10933/2016

**THE IMMIGRATION ACTS**

**Heard at Stoke**

**On September 27, 2017**

**Decision & Reasons  
Promulgated  
On October 3, 2017**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE ALIS**

**Between**

**MR O H A  
(ANONYMITY DIRECTION MADE)**

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Appellant  
Respondent

**Representation:**

For the Appellants: Ms Patel, Counsel instructed by Broudie Jackson & Canter  
For the Respondent: Mr Bates, Senior Home Office Presenting Officer

**DECISION AND REASONS**

1. I make an anonymity direction in this matter pursuant to Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008.
2. The appellant is a citizen of Iraq.
3. On April 9, 2016 the appellant lodged an application for asylum but following an interview the respondent refused his application under paragraphs 336 and 339M/339F HC 395. The appellant appealed that

decision under section 82(1) of the Nationality, Immigration and Asylum Act 2002 on October 7, 2016 and the matter was listed before Judge of the First-tier Tribunal O'Hanlon (hereinafter called the Judge) on February 7, 2017 and in a decision promulgated on February 22, 2017 his appeal was dismissed.

4. The appellant appealed that decision and permission to appeal was granted by Judge of the First-tier Tribunal Pedro on June 18, 2017.
5. The matter came before me on the above date and I heard submissions on the error or law from both representatives. Having heard their oral submissions I indicated to the parties there was no error in law. This decision sets out my reasons for that conclusion.

### **SUBMISSIONS**

6. Ms Patel adopted the grounds of appeal and submitted the Judge erred by failing to attach any weight to the appellant's wife's evidence. She pointed out that the Judge made findings on the appellant's account at [17] to [21] but failed to make any findings on his wife's account at [22] and simply rejected her evidence because it supported an account he had already rejected. The Judge did not consider the evidence in the round as he should have done. This failure infects the remainder of the decision and should be set aside.
7. Mr Bates adopted a Rule 24 reply dated July 5, 2017 and submitted the Judge had considered the appellant's wife's evidence at [20] and rejected aspects of that evidence and concluded the appellant's claim lacked credibility and that the Judge was entitled to make the findings he did.

### **ERROR OF LAW**

8. The ground of appeal was a narrow ground concerned solely with the Judge's approach to the appellant's wife's evidence. The Judge noted at [22] of his decision that the wife's evidence supported the appellant's claim but Ms Patel argues that finding should have been made prior to the Judge rejecting the appellant's claim because in setting out his decision in the manner he did the Judge had not considered all the evidence in the round.
9. Having considered the submissions made I rejected Ms Patel's argument. I am satisfied the Judge was aware of the appellant's wife's evidence. He says as much in [22] of his decision but more importantly he set out the claim from [18] of his decision and whilst [18] and [19] are a consideration of the appellant's account it is also an assessment of the wife's evidence as her account supported this aspect of his claim. In [20] the Judge gave reasons for rejecting both the appellant's and his wife's evidence. The fact he considered the claim with reference to both the appellant and his wife's account undermines Ms Patel's submission that he considered the appeal without reference to the wife's account. Whilst he did not go through each

and every part of the wife's claim he made significant findings in [20] and these fed into his finding at [22].

10. The findings made by the Judge were open to him and he was not required to make findings on each point raised. The Judge rejected, to the lower standard of proof, the appellant's claim and that included the fact the wife supported his claim. It was a finding open to him.

**NOTICE OF DECISION**

11. The making of the decision of the First-tier Tribunal did not involve the making of an error on a point of law. I uphold the original decision.

Signed

Date 02.10.2017

Deputy Upper Tribunal Judge Alis

**TO THE RESPONDENT**  
**FEE AWARD**

No fee award was made as I have dismissed the appeal.

Signed

Date 2.10.2017

Deputy Upper Tribunal Judge Alis