



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

Appeal Number: PA140412016

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 16 May 2017**

**Decision & Reasons  
Promulgated  
On 30 May 2017**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE G A BLACK**

**Between**

**B H  
(ANONYMITY DIRECTION MADE)**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: Mr E Fripp, Counsel, instructed by Barnes Harrild & Dyer  
Solicitors

For the Respondent: Mr T Wilding, Home Office Presenting Officer

**DECISION AND REASONS**

1. This is an appeal by the appellant, B H, in respect of the Decision and Reasons by First-tier Tribunal Judge Cockrill ("FTT") which was promulgated on 30 January 2017 in which he dismissed the appellant's appeal, having found that he internal flight was available to him to the IKR.

2. Permission to appeal was granted by Upper Tribunal Judge Allen on renewal, who simply stated that permission was granted finding that all three grounds were arguable.
3. In essence the FTT found that the appellant's claim to be in fear of ISIS on the grounds of political opinion to be made out. He claimed that he would face indiscriminate violence in his home area Kapran/Gwer, a contested area [42] and in Erbil part of the Iraqi Kurdish Region (IKR). The FTT accepted that he could not be returned to Baghdad [44]. The FTT concluded that the appellant could return to the IKR [45 &46].
4. The grounds of appeal contend that the FTT failed to properly apply the country guidance case of **AA(Article15(c))(Rev 2 ) [2015] UKUT 544 (IAC)** at paragraph 20. The FTT failed to consider the likelihood of securing employment in light of his claim that he had not CSID/identity documents.
5. It was further contended that the FTT failed to attach sufficient weight to materially relevant factors including the appellant's young age, lack of work experience or of living alone, the difficulties he would have obtaining identity documents and as an internally displaced person. The FTT placed excessive weight on the fact that the appellant had distant relatives in the IKR.

### **Discussion and decision**

6. This morning I have read Mr Fripp's "Note on law" and heard submissions from both representatives which are set out in the record of proceedings. I have additionally taken into account a Rule 24 response from the respondent that specifically raised the voluntary return scheme and preconditions to return to the IKR. Whilst accepting Mr Fripp's emphasis that the test for internal relocation is "unduly harsh" and for that test not to be agglomerated with the risks under Articles 2 and 3, I am nevertheless satisfied that the First-tier Tribunal did properly consider all the relevant issues and factors in considering the availability of internal relocation having regard to the relevant guidance in **AA** that was drawn to the attention of the FTT at the hearing [31-33]. The FTT considered location in a non-contested area, age, the fact that the appellant had not previously worked in that area and the fact that the appellant is a Kurd from Erbil. The FTT accepted that it would be "deeply uncomfortable" for him in IRK. It also found that he has family members in Sulayminiyah. The FTT considered specifically that the appellant had several family members and accepted that he did not have close dealings with them but found it was reasonable that he could return there and gain some support from those aunts and uncles living in a safe non contested area. The appellant stated that he had two paternal uncles and one paternal aunt and that he had met one of his uncles a few years ago at his home. He did not know where they lived. The FTT made no positive finding that the appellant's immediate family had remained in their home area and accepted that it

could be reasonably assumed that they had fled. The FTT found that it was not unduly harsh and reasonable in those circumstances for the appellant to return to IKR where he could gain support from his relatives. I find nothing irrational nor perverse in those findings. In addition Mr Wilding submitted that he can avail himself of the Assisted Voluntary Return scheme, although that matter was not specifically considered by the FTT, it is material as this will provide him with support for finance and accommodation. I have also taken into account the respondent's Rule 24 response at paragraph 3 which states that the appellant will only be returned once his identity is pre-cleared by the Kurdish authorities. The IKR authorities do not require an expired or current passport or laissez passer.

7. I am satisfied that the First-tier Tribunal Judge did not apply a more stringent standard than that required for internal relocation. Accordingly I have decided that none of the grounds have been made out.

### **Notice of Decision**

8. Accordingly the Decision and Reasons shall stand and I find no material error of law.

The appeal is dismissed.

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

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

Signed

Date 25.5.2017

Deputy Upper Tribunal Judge G A Black

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

I have dismissed the appeal and therefore there can be no fee award.

Signed

Date 25.5.2017

Deputy Upper Tribunal Judge G A Black

