



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: PA/01156/2018

THE IMMIGRATION ACTS

Heard at Manchester Civil Justice Centre
On 20th July 2018

Decision & Reasons Promulgated
On 26th July 2018

Before

UPPER TRIBUNAL JUDGE COKER

Between

BM
(Anonymity order made)

Appellant

And

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Holmes instructed by Citizens Advice Bureau, Bolton
For the Respondent: Mr Tan, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

Pursuant to Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 (SI 2008/269) I make an anonymity order. Unless the Upper Tribunal or a Court directs otherwise, no report of these proceedings or any form of publication thereof shall directly or indirectly identify the appellant in this determination identified as BM. This direction applies to, amongst others, all parties. Any failure to comply with this direction could give rise to contempt of court proceedings

1. BM arrived in the UK on 28th October 2016 and claimed asylum the following day. His claim was refused and his appeal against that decision heard and dismissed by First-tier Tribunal Judge Ford for reasons set out in a decision promulgated on 18th April 2018.
2. The appellant sought and was granted permission to appeal by First-tier Tribunal Judge EB Grant on the grounds that it was arguable the First-tier Tribunal Judge had erred in law with regards to the CSID. Permission was refused on all other grounds; there was no renewal to the Upper Tribunal.
3. The relevant extracts from the First-tier Tribunal decision are as follows:
 8. ...[BM] told me that he had left his CSID card in a shoebox in his family home in Iraq because he had a passport. He thought it was issued in 2014. At his screening interview he said that he lost his passport en route to the UK. At the hearing he said that the agent had thrown his passport away telling him that it was not a good idea to carry it, particularly passing through Italy, because the authorities there would use it to return him to Iraq.
...
10. [BM] acknowledge he had uncles and aunts in his home town in Iraq but said he had had no contact with them since he left. He denied having any relatives in the KAR.....
....
14. [BM] will be returned to Baghdad as he is not from the KAR. I must deal with the issue of whether he has or can get his passport and/or CSID and if not, whether he can access ID documents and/or support to enable him to secure the necessities of life in Baghdad.
...
17.I find that [BM] has fabricated an asylum claim based on a false account of his father being a Kurdish spy for the Ba'athist regime.
18.I find it credible that [BM] was told to throw his passport away once he had reached Italy to avoid being returned to Iraq by the Italian authorities. But I did not find it credible that [BM] did not take his CSID with him when travelling across Iraq via the KAR to exit to Turkey when he and his family left the country. He had no reason to leave it in a shoe box at home. The CSID would have been useful to him in travelling across Iraq and accessing various services.
19.....[BM] failed to give a credible explanation as to where his CSID document currently is. I am satisfied he brought it with him when he travelled across Iraq and across the KAR. He has failed to establish that he cannot access it. It is most likely in the hands of his father. [BM] claims not to be in contact with his family but I do not find this to be at all credible. This is a wealthy family and they had a lot of cash available to them when they left Iraq from the sale of business interests. I do not believe for one moment that [BM's] father allowed him to separate from the rest of the family without ensuring that they had the means to stay in contact with one another.
20.[BM] will not co-operate in securing his CSID from his father. But crucially, on his return to Baghdad, he can provide the details necessary to the Civil Status Affairs Office for Salah Ad-Din which has been re-located to Baghdad so as to get a replacement CSID. I am satisfied that he is in contact with his father and can secure the resources necessary to get the necessary replacement CSID and to support himself in Baghdad until such time as he gets re-established there.
4. Mr Holmes was correct when he said that not much turns on the judge's finding that he did not accept as credible BM's evidence that he was not in touch with his family in Turkey because he had not been asked about family in Turkey, only family in Iraq. That BM is in touch with his family in Turkey is of relevance to the findings of the judge with regard to support on return to Baghdad and the extent to which he is able to access his CSID if he has

indeed not got it with him. Whether he was asked that question or not, is not relevant given that he does not deny that he is in contact with them.

5. The basis of BM's claim for asylum was disbelieved. The First-tier Tribunal Judge did not accept that BM's father had been a spy. Although Mr Holmes asked rhetorically why BM would not have thrown his CSID into the sea at the same time as his passport, that was not how BM put his case – his case was that he had left it in Iraq. That was comprehensively disbelieved. The judge did speculate that the CSID was with his father and it is correct that this was not put to him during his oral evidence, but that speculation does not alter the fundamental issue of whether he has access to his CSID or not. It is not in Iraq. It is either therefore with BM or with his family in Turkey.
6. The essential finding of the judge is that BM does have his CSID. If he does not, in the alternative, the First-tier Tribunal Judge considered whether he would be able to obtain one. Given that his father was not a spy and that BM is in contact with his family in Turkey, there is no reason why he cannot travel to Baghdad with his father or other family member and obtain a replacement. But, as the judge found, he did not accept that BM no longer had it.
7. The underlying claim for asylum was rejected. The First-tier Tribunal Judge made a finding that BM has his CSID.
8. There is no material error of law in the decision by the First-tier Tribunal Judge.

Conclusions:

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

I do not set aside the decision; the decision of the First-tier Tribunal dismissing the appeal stands.

Anonymity

The First-tier Tribunal did not make an order pursuant to rule 45(4)(i) of the Asylum and Immigration Tribunal (Procedure) Rules 2005.

I make an order pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008.

Date 24th July 2018



Upper Tribunal Judge Coker