



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

Appeal Number: PA/03209/2015

THE IMMIGRATION ACTS

**Heard at North Shields
On 13 February 2018**

**Decision & Reasons Promulgated
On 26 February 2018**

Before

DEPUTY UPPER TRIBUNAL JUDGE APPLEYARD

Between

**MUOSA [H]
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr C Boyle, Solicitor.

For the Respondent: Mr Diwnycz, Home Office Presenting Officer.

DECISION AND REASONS

1. The Appellant is a citizen of Iraq who sought international protection. His application was refused and he appealed and following a hearing, and in a decision promulgated on 17 July 2017, Judge of the First-tier Tribunal Hands dismissed the Appellant's appeal.
2. The Appellant sought permission to appeal which was initially refused but on a renewed application granted by Upper Tribunal Judge Storey in a decision dated 23 November 2017. His reasons for the grant are: -
"It is arguable that the judge's treatment of the CSID issue is not consistent with the Court of Appeal guidance in AA [2017] EWCA Civ

944 and that the judge failed to correctly apply the country guidance in *BA (Returns to Baghdad)* [2017] UKUT 00018 especially given the judge's finding in para 32 that the situation in Baghdad has not changed significantly since."

3. Thus, the appeal came before me today.
4. Mr Boyle relied upon the grounds seeking permission to appeal arguing that the Judge inadequately reasoned the findings made in relation to the Appellant's "unreliable" evidence in respect of family in Baghdad. That the Judge also materially erred in failing to follow the guidance in **AA (Iraq) v SSHD [2017] EWCA Civ 944** and that given to "the CSID" as detailed in the Annex to the decision at Section C paragraph 9, 10 and 11. Finally that the Judge had erred in relation to the issue of the Appellant's kidnapping risk which departs from the country guidance contained within **BA (Returns to Baghdad Iraq CG) [2017] UKUT 00018 (IAC)**.
5. Mr Diwnycz relied upon the Respondent's Rule 24 response dated 21 December 2017 and urged me to accept that the Judge had distinguished the Appellant within these proceedings from those within both **AA** and **BA** and appropriately directed herself resulting in the decision containing no material error of law.
6. I find that not to be the case. The grounds relied on show material errors as argued and that the treatment of the CSID issue is inconsistent with the Court of Appeal guidance in **AA** and that there is a failure to correctly apply the country guidance in **BA**. This is particularly so considering the Judge's own findings in relation to the situation in Baghdad.
7. Albeit that the Appellant attended the hearing late he was present. I was told that he was unable to give evidence without an interpreter. I considered whether I could resolve the competing issues today. However, I am persuaded that further evidence is needed with reference to the issue of the Appellant's family in Baghdad. I am satisfied that the relevant evidence has not properly been considered by the First-tier Tribunal and that there has been therefore a deprivation of opportunity for the Appellant to put his case properly. In the circumstances I have decided to remit this appeal to the First-tier Tribunal to be heard de novo.

Decision

The making of the decision of the First-tier Tribunal involved the making of an error on a point of law. The decision is set aside. The appeal is remitted to the First-tier Tribunal to deal with afresh pursuant to Section 12(2)(b)(i) of the Tribunals, Courts and Enforcement Act 2007 and Practice Direction 7(b) before any Judge aside from Judges Hands and S T Fox.

No anonymity direction is made.

Signed

Date 21 February 2018.

Deputy Upper Tribunal Judge Appleyard