Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: PA/05940/2017
PA/05848/2017

THE IMMIGRATION ACTS

Heard at Liverpool	**Decision & Reasons Promulgated**
On 20 February 2018	**On 23 February 2018**

Before

UPPER TRIBUNAL JUDGE HANSON

Between

MR MURTADHA AMEEN ABDULHUSSEIN
MRS JENNA MOHAMMED HUSSAIN AL MUSAWI
(anonymity direction not made)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:
For the Appellant: Mr Ceesay of Immigration Advisory Services, Manchester.
For the Respondent: Mr Harrison Senior Home Office Presenting Officer.

ERROR OF LAW FINDING AND REASONS

1. The appellants are related as a mother and son. The first appellant was born on 18 May 1996 the second appellant on 2 February 1962. Both are citizens of Iraq. They appeal with permission against the decision of First-tier Tribunal Judge Andrew Davies promulgated on 7

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August 2017 in which the Judge dismissed the appeals on both protection and human rights grounds.

Background

2. The appellants are Shia Arab Muslims from Baghdad. The first appellant's father is an accountant. The family are said to be affluent in Iraq. In 2014 the appellant applied for a visit visa to the United Kingdom although the applications were refused by an Entry Clearance Officer. The appellants successfully appealed the refusal to the Upper Tribunal. In November 2015 the first appellant began an undergraduate programme of study in philosophy at the University of Baghdad. The first appellant claims that sometime around December 2015 he was heard criticising Iraqi militias in a conversation with another student as a result of which he was attacked and beaten up by two men, believed to be members of the militia. The first appellant claimed that when the attack was stopped by other people present the two men threatened that if the first appellant was ever seen at the University again he should "consider himself dead".
3. The Judge records the respondent's case and evidence given before setting out findings of fact from [21] of the decision under appeal. The Judge is critical of the evidence given. The Judge considers the country guidance case of AA (Iraq) [2017] EWCA Civ 944 at [39] of the decision under challenge.
4. At [40 – 41] the Judge finds:

> "40. I am satisfied that the account given by A1 lacks credibility and plausibility for the reasons I have set out above. A2 was less than impressive witness who had to be reminded on occasion to deal with the questions put to her. I dismiss their appeals.
>
> 41. The issue of internal relocation and sufficiency of protection does not arise. The Appellants are from Baghdad City. They continue to have family there and the family home. They are from an affluent family by Iraqi standards. They arrived in the UK using Iraq passports. On the basis of AA (Iraq) there are no grounds for a grant of humanitarian protection under Article 15 (c). I do not accept the account of A1 that he and his family are targeted by a militia group. I dismiss the appeals."

5. Permission to appeal was granted by another judge of the First-tier Tribunal on the basis that judge found it arguable there may have been material error of law which could have made a difference to the outcome in relation to the apparent finding at [34]. The judge granting permission states the Judge appears to accept that the militia had been to the first appellant's father's house looking for him. It is not clear from the decision who the "him" was. It also appears to undermine the general findings that there is no adverse interest in the family.

Error of law

6. At [34] the Judge finds:

> "34. I am not satisfied that the Appellants have shown that any harm has come to A1's father/A2's husband. Mr Ceesay in his submission pose the question as to why A1's father would not tell anyone where he was going and he answered his own question by submitting that the only reason would be that something might have happened to him. He was somewhat with a professional background with a good income and his own house and not someone who did not care about his family. The implication I took from the submission is that something had happened to him at the hands of the same militias who had attacked his son. However, from his sister statement at page 37 of the bundle, I can only draw the conclusion that he had left the country or certainly got out of the way since "*several Islamist's*" came to her house looking for him."

7. It is argued by the appellant that the Judge has made a number of errors. Inter alia, it is asserted the Judge made no findings in relation to evidence provided by Suad Abdulussein, who claimed her brother, the appellants father, received death threats against him and his family by Islamic individuals belonging to one of the armed militia who put a wanted notice on the door of the family home.
8. It was also submitted the Judge should have done more than he did at [34] in relation to this evidence.
9. In relation to the adverse credibility findings Mr Ceesay challenges the Judge's finding in relation to the key core conversation involving the first appellant and his friend, that the evidence was contradictory, saying the two accounts are of the same discussion and that the Judge made findings fundamental to the account. In this respect Mr Ceesay relied upon the pleaded grounds.
10. Mr Ceesay also sought to argue that the appellant is from an affluent family upon which the Judge made inadequate findings; including the fact that as he was from an affluent family this could give rise to a real risk on return. Mr Ceesay submitted the fact the appellant was from an affluent family heightens his case as otherwise why would he have left Baghdad to travel to the United Kingdom. It was submitted the Judge failed to deal with this aspect.
11. Mr Ceesay also referred to the issue of kidnapping but no arguable error arises as this was not a matter that was raised before the Judge and it was not made out that any risk of kidnapping was relied upon in relation to the protection claim or has been shown, by reference to country material or decided authority, to create a credible real risk warranting a grant of international protection.
12. Mr Ceesay referred to findings made by the Judge granting permission but, as was reinforced on a number of occasions during the hearing, that judge made no findings. A judge granting permission is doing no more than suggesting that the grounds relied on by the appellant seeking permission may be arguable.

13. I do not find the appellant has made out legal error material to the decision to dismiss the appeal sufficient to warrant the Upper Tribunal interfering with this determination. It is clear the Judge considered the evidence with the required degree of anxious scrutiny and has given adequate reasons in support of the findings made. There is no arguable ambiguity in the conclusions the conclusion of which are clearly set out in [40] as being that both the appellant's lack credibility. The Judge considered the evidence concerning the alleged conversation undertaken by the first appellant and his friends which is specifically mentioned that [24] and beyond in the decision under challenge. Accordingly the Judge was unable to place any weight upon their claim to face a real risk on return to Iraq for the reasons stated or otherwise. This conclusion is within the range of those reasonably open and available to the Judge on the evidence.
14. In relation to [34], set out above, no arguable ambiguity arises. The Judge clearly refers to the letter and finds that the submissions made raise an implication that something had happened although this is not a clear finding that the appellants father had been threatened or harmed as alleged. The Judge was arguably entitled to come to the conclusion set out in this paragraph on the evidence.
15. In a reasons challenge, the question is whether a reader of the determination is able to understand why or how the Judge arrived at the conclusions he or she did. In this appeal it is clear that adequate and clear reasons have been given in support of the findings made. The weight to be given to the evidence was a matter for the Judge. The Judge is not required to set out findings in relation to each and every aspect of the evidence. The Judge clearly considered that evidence and a reading of the decision in the round clearly supports the recorded conclusions and dismissal of the appeals.
16. Although Mr Ceesay sought to argue otherwise, it has not been made out the Judge has erred in law in a manner material to the decision to dismiss the appeal. The appellant fails to establish any legal error that warrants the Upper Tribunal interfering with this decision. It is found this is a decision within the range of those reasonably open to the Judge on the evidence.

Decision

17. There is no material error of law in the Immigration Judge's decision. The determination shall stand.

Anonymity.

18. 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 no such order pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008.

Signed…….
Judge of the Upper Tribunal Hanson

Dated the 20 February 2018