



**Upper Tribunal
(Immigration and Asylum Chamber)
PA/10061/2017**

Appeal Number:

THE IMMIGRATION ACTS

**Heard at Liverpool
On 3 May 2018**

**Decision & Reasons Promulgated
On 9 May 2018**

Before

DEPUTY UPPER TRIBUNAL JUDGE PICKUP

Between

**WAAD KANAN KAMAL
[NO ANONYMITY DIRECTION MADE]**

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the appellant: Ms N Patel, instructed by Lei Dat Baig Solicitors
For the respondent: Mr A McVeety, Senior Home Office Presenting Officer

DECISION AND REASONS

1. This is the appellant's appeal against the decision of First-tier Tribunal Judge Herwald promulgated 22.11.17, dismissing on all grounds his appeal against the decision of the Secretary of State, dated 21.9.17, to refuse his protection claim.
2. First-tier Tribunal Judge Holmes granted permission to appeal on 28.12.17.
3. Thus the matter came before me on 3.5.18 as an appeal in the Upper Tribunal.

Error of Law

4. For the reasons summarised below, I found no error of law in the making of the decision of the First-tier Tribunal sufficient to require the decision to be set aside.
5. In granting permission to appeal, Judge Holmes considered it arguable that the judge failed to properly engage with the case before him. It was suggested that there is no finding on the risk relied on, namely to a Sunni Kurd, from Shia forces who may suspect him of ISIS participation; no analysis of how he would be perceived on return to his home area as one with a Kurdish father and Arab mother; no adequate analysis of whether he could travel from Baghdad to his home area of Mosul, or relocate to the IKR or Baghdad. It was also suggested that there was no adequate analysis of the country guidance case law.
6. With all due respect to Judge Holmes, the grant of permission fails to understand that Judge Herward accepted that the appellant would not be able to return safely to Mosul or be able to relocate to the IKR and thus safety of travel or how he would be perceived on return to either place are entirely irrelevant issues. The judge's conclusion was in fact that the appellant would be able to settle in Baghdad.
7. The tribunal was satisfied, on the appellant's own evidence that he had issued to him a valid passport, still current, and national ID, and that he would be able to obtain replacements in the UK, but had not attempted to do so. Return was judged to be feasible. Whilst the appellant did not currently have a CSID, AA established that there is an alternative CSA office for Mosul in Baghdad and thus it was reasonable to conclude that he would be able to obtain a CSID shortly after return to Iraq.
8. The judge concluded at [22] that it would not be unreasonable for the appellant to relocate to Baghdad City, on the basis that he would be able to obtain a CSID, that he speaks Arabic, and claimed to not be from a minority background. There are Sunni majority areas within Baghdad and the appellant is an Arab.
9. BA (Returns to Baghdad) Iraq CG [2017] UKUT 18 (IAC), established that Sunni identity alone is not sufficient to give rise to a risk of serious harm. The general treatment of Sunnis by the state is not sufficiently serious by its nature and repetition to reach the high threshold of persecution or otherwise inhuman or degrading treatment. The judge carefully considered but ultimately found no particular factors relevant to the appellant that would make him particularly vulnerable or at risk on return from Shia militia simply on the basis of his being Sunni. All Ms Patel could point to was a general country background information that persons such as the appellant find it difficult to persuade the authorities that he was not an ISIS participant. That Shia militia had abducted Sunni residents in Mosul or other parts of Iraq has no bearing if the appellant is to relocate in Baghdad. There was no evidential basis to establish that this appellant would attract adverse attention from Shia militia in Baghdad. In the circumstances, I am satisfied that there was insufficient to establish that the concerns raised by Ms Patel had any real relevance to the appellant.

10. In the circumstances, there was no merit in this appeal. I can see no error of law in the decision of Judge Herwald and no basis to interfere with the conclusions reached on the findings made, all of which were open to the judge on the evidence and for which cogent reasoning has been provided.

Conclusion & 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 such that the decision should be set aside.

I do not set aside the decision.

The decision of the First-tier Tribunal stands and the appeal remains dismissed on all grounds.



**Signed
Deputy Upper Tribunal Judge Pickup**

Anonymity

I have considered whether any parties require the protection of any anonymity direction. No submissions were made on the issue. The First-tier Tribunal did not make an order pursuant to rule 13(1) of the Tribunal Procedure Rules 2014.

Given the circumstances, I make no anonymity order.

Fee Award

Note: this is not part of the determination.

I make no fee award.

Reasons: No fee is payable and thus there can be no fee award.



**Signed
Deputy Upper Tribunal Judge Pickup**