



Upper Tribunal

(Immigration and Asylum Chamber) Appeal Number: PA/01623/2018

THE IMMIGRATION ACT

**Heard at Civil Justice Centre
Manchester**

On 18th March 2019

**Decision & Reasons
Promulgated**

On 21st March 2019

Before

DEPUTY UPPER TRIBUNAL JUDGE MCCLURE

Between

Sangar Jabar Ali

(NO ANONYMITY DIRECTION MADE)

Appellant

And

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Bednarek of Broudie, Jackson and Canter Solicitor

For the Respondent: Mr Tan Senior Home Officer Presenting Officer

DECISION AND REASONS

1. This is an appeal by the Appellant against the decision of First-tier Tribunal Judge Shergill promulgated on the 15th March 2018 whereby the judge dismissed the appellant's appeal against the decision of the respondent to refuse the appellant's claims based on asylum, humanitarian protection and Articles 2 and 3 of the ECHR.

I have considered whether or not it is appropriate to make an anonymity direction. Having considered all the circumstances I do not consider it necessary to do so.

2. Leave to appeal to the Upper Tribunal was granted by Deputy Upper Tribunal Judge Davey on 16th November 2018. Thus the case appeared before me to determine whether or not there was a material error of law in the decision.
3. The material parts of the leave granted provide:-

1 Many of the grounds are really a disagreement with the findings of the judge, for which sufficient and adequate reasons were given.

2 In any event the position for Kurds has materially changed, given the decisions in AAH (Iraqi Kurds-internal relocation) [2018] UKUT 212 (IAC) ... and AA(Iraq) [2017], ... and the changing position on (Article 15(c)) in relation to Diyala and other contested areas; internal relocation access to CSID returns to the IKR may have in event changed the landscape on safety on return

...

Whilst the difficulties the Respondent may have in removing the Appellant without a current or expired passport or laissez passer without a CSID or evidence of the real likelihood of being able to obtain one are matters for the Respondent. But the new Section E of the Annex to AAH (Iraq) [2018] indicate the judge's assumption about obtaining new identity documents within a reasonable time finding accommodation and employment may indicate a real risk to civilians from Baghdad.

4. Mr Bednarek despite the clear indication in the leave granted sought to argue the findings of fact made by the judge. The findings made in paragraphs 20 to 31 have not been challenged. The judge has made clear adverse findings there and in paragraphs 32 to 35 finding amongst other things that specific elements of the appellant's account as to how and why he left Iraq are not credible. Those findings alone are sufficient to reject the appellant's account as to how he came to leave Iraq and therefore his claim to have been at risk at the time that he was leaving Iraq.

5. As identified in the leave granted the grounds of appeal set out in detail challenges to the findings of fact made by the judge. The judge has given valid reasons for his findings and was entitled having found the main substance of the appellant's account not credible to find that the appellant's claims to have come from Jalawla was not credible. The judge has given valid reasons for the findings of fact made. The grounds of appeal identified as ground one and two in the circumstances are nothing more than a disagreement with the findings of fact. The judge was entitled to make findings that he has.
6. As identified within the leave issues were raised with regard to whether the decision was in accord with country guidance. The decision in the present appeal was as stated promulgated on 15 March 2018. The country guidance case sought to be relied upon was not reported until June 2018.
7. Mr Tan sought to rely upon **NA (Libya)** 2017 EWCA Civ 143 paragraph 27 which provides:-

27 It is no doubt because Country Guidance cases do not have the effect of establishing any principle of law, combined with the fact that a tribunal cannot be criticised for failing to take into account material which has come into existence after the promulgation of its determination, that as a general rule the fact that the determination of the First-tier Tribunal is inconsistent with a Country Guidance case issued after the determinations promulgated, will not amount to an error of law.
8. It is correct to say in respect of present case the country guidance relied upon was only promulgated some 3 months after the present decision had been promulgated.
9. In any event the judge has made specific findings with regard to the appellant's account and rejected the appellant's account. The judge also rejected claims by the appellant that he had lost all contact with his family and would not be able to contact them. The judge was satisfied that even if the appellant's parents were dead the appellant had an uncle who had assisted him in the past and would assist him if the appellant were return to Iraq. The appellant therefore had a male member of the family rely for support and assistance and could assist the appellant in obtaining the required documentation.
10. Taking all those matters into account the judge thereafter has concluded that the appellant would be able to obtain a CSID card. On the evidence before him the judge was entitled to conclude that the appellant would be able to be returned to the IKR. Again those were findings of fact the judge was entitled to make on the basis of the evidence before him.

11. The circumstances the judge had concluded that the appellant would have family connections in the region and would be able to rely upon his family support, accommodation and help. The judge was satisfied that the appellant being able-bodied would be able to find work. Again a conclusion he was entitled to make on the evidence before him.
12. Even taking into account the guidance given in the case of **AAH**, the judge has properly considered all relevant factors and was entitled to conclude that the appellant was not at risk in Iraq. He would be able to re-establish himself in his home area. The decision therefore does not contain any material error of law.

Notice of Decision

13. I dismiss the appeal on all grounds.

Signed 

Deputy Upper Tribunal Judge McClure

Date 19 March 2019.