Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: PA/02255/2018

THE IMMIGRATION ACTS

Heard at Birmingham CJC	**Decision & Reasons Promulgated**
On 3 May 2019	**On 16 May 2019**

Before

DEPUTY UPPER TRIBUNAL JUDGE I A LEWIS

Between

B A
(ANONYMITY DIRECTION MADE)

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:
For the Appellant: Mr J Howard of Fountain Solicitors.
For the Respondent: Mr D Mills, Senior Home Office Presenting Officer.

DECISION AND REASONS

1. This is an appeal against the decision of First-tier Tribunal Judge Pacey dismissing an appeal against a decision of the Respondent refusing protection in the United Kingdom.

2. The Appellant is a citizen of Iraq whose date of birth is given as 1 January 1983. His immigration history is a matter of record on file and accordingly I do not repeat it in its entirety here. For present purposes however I note that he claims to have arrived in the United Kingdom on 13 June 2017 clandestinely; he claimed asylum on the same date; a screening interview was also conducted on 13 June 2017.

3. The basis of the Appellant's protection claim is helpfully set out in the Decision of the First-tier Tribunal at paragraphs 7 *et seq.* - first of all in summary, and then with more detail. The following is said by way of summary at paragraphs 8 and 9:

> "*8. He was claiming asylum because he had wanted to marry a girl, named [S] and had asked for her hand for many years but her father refused on the basis that the Appellant could not take care of himself (since he was missing an arm and two fingers on the other hand) so he could not take care of his daughter. The girl had said she wished to marry him and did not wish to marry anyone else.*
>
> *9. One night he and [S] were together and her father saw them and tried to grab him but he ran away. Whilst running he heard a gunshot and her father afterwards told him he had killed his daughter, and would kill him too.*"

4. The First-tier Tribunal Judge did not accept the Appellant's account, setting out reasons in particular at paragraphs 31-45 of the Decision. This led the Judge to conclude in the following terms at paragraphs 46 and 47:

> "*46. For the above reasons I do not accept the Appellant's account as credible.*
>
> *47. I therefore do not accept that he has a well-founded fear of persecution and hence do not need to consider the issue of which, if any, Convention reason is applicable to his case.*"

5. The Judge then cited the case of **AA (Iraq) [2015] UKUT 544** (paragraph 48), and also made reference to the notion of humanitarian protection (paragraph 49). The Judge then stated this:

> "*50. The Appellant says he has a CSID card, although he also says he does not have it with him. He would not therefore be at risk of harm because of an absence of Iraqi identification documentation.*"

6. The Judge then made further reference to **AA (Iraq)** in respect of the general situation in the IKR, and then stated in respect of Article 8 of the ECHR:

> "*The Appellant has no family in the UK and has not demonstrated that he has a private life here sufficient to engage article 8*" (paragraph 52).

7. The Judge then dismissed the appeal on all grounds (paragraph 53).

8. The Appellant sought permission to appeal to the Upper Tribunal, which was initially refused by First-tier Tribunal Judge Dineen on 1 May 2018 but subsequently granted by Upper Tribunal Judge Plimmer on 27 June 2018 in the following terms:

> "*1. It is arguable that the FTT made unclear and inadequate findings regarding the Appellant's access to a CSID at the point of return and thereafter.*
>
> *2. The other grounds have less force but I grant permission on all grounds.*"

9. The Respondent has filed a Rule 24 response dated 6 September 2018 resisting the Appellant's challenge. The Rule 24 response essentially focuses on the ground of appeal that Judge Plimmer considered had particular merit, asserting that the "*need for a CSID was superfluous*" in circumstances where the Appellant's core claim had been found to be without credibility and he appeared to have direct family members present in the IKR.

10. The application for permission to appeal sets out 5 grounds of appeal; the ground of appeal in respect of the CSID is Ground 4. It helpfully sets out some of the guidance to be derived from **AA (Iraq) [2017] EWCA Civ 944** - in particular I note the following:

> *"9. Regardless of the feasibility of P's return, it will be necessary to decide whether P has a CSID, or will be able to obtain one, reasonably soon after arrival in Iraq. …*
>
> *10. Where return is feasible but P does not have a CSID, P should as a general matter be able to obtain one from the Civil Status Affairs Office for P's home Governorate, using an Iraqi passport (whether current or expired), if P has one. If P does not have such a passport, P's ability to obtain a CSID may depend on whether P knows the page and volume number of the book holding P's information (and that of P's family). P's ability to persuade the officials that P is the person named on the relevant page is likely to depend on whether P has family members or other individuals who are prepared to vouch for P."*

11. Further to this Mr Howard has directed my attention to the guidance in **AAH (Iraqi Kurds – internal relocation) Iraq CG [2018] UKUT 00212 (IAC)** which provides a step-by-step guide to the processes and questions that need to be considered in the context of obtaining a CSID.

12. The Respondent's Rule 24 response highlights the context of the consideration of this issue: the Appellant's claim for protection had been rejected as not being credible, and the reasonable inference therefrom was that the Appellant had family members still in Iraq, including male family members. It would therefore be the case that by making use of their CSID documents the relevant page in the book could readily be identified if it was necessary for the Appellant to obtain a further CSID. It was also implicit in the Respondent's submission in the Rule 24 response that the Appellant would have family members who could vouch for him.

13. In this regard it seems to me that the starting point, in any event, is the Judge's observation at paragraph 50 that the Appellant stated that he did indeed have a CSID card, albeit it was not presently with him. In this context I note the following exchange in the Appellant's substantive asylum interview conducted on 4 October 2017:

> *"140. do you have a civil status id doc*
> *A. I have yeah everything*
>
> *141. where was it issued*
> *A. in Sulimaniya*
>
> *142. when was it issued*
> *A. a long time ago but they used to renew it every year always i had this id*
>
> *143. where is it now*
> *A. at home everything, only i use the passport and on the way i lost it*
>
> *144. could you obtain your csid if you returned*
> *A. i cannot not return*
>
> *145. thats not what i asked repeat Q144*
> *A. yes, i cannot if i go back they will kill me. i apologise i don't know these*
>
> *146. to confirm you could obtain you csid on return is that correct*
> *A. yes"*

14. I pause to note that the reference to losing "*it*" at question 143 is clearly a reference to the loss of the Appellant's passport during the course of his journey to the United Kingdom. In this context it is to be noted that the Appellant indicated at question 101 that whenever he went to see S he took his passport with him just in case he was discovered and would be required to flee. It may be thought that that is such an extraordinary answer – or such an extraordinary means of precaution – that it is deserving of cynical scrutiny; be that as it may, it is clear enough from the Appellant's answers that it was his passport that he lost on his way to the United Kingdom, not his CSID.

15. In his witness statement of 5 March 2018, at paragraph 29, the Appellant made some comments about the difficulty of relocating to Baghdad and stated that this would be difficult because he was Kurdish and did not have any family there. He also then added "*I do not have a CSID*", before going on to say that he had no friends or family who would be able to financially support him in Baghdad. It seems to me that in context the reference to not having a CSID was clearly a reference to not having one with him in the United Kingdom - and therefore if he were to be returned directly to Baghdad he would be arriving in that city without the CSID that he had left at his home in the IKR. I do not begin to consider that what is said at paragraph 29 was to 'row back' from the answers given in the interview. To that extent it seems to me that when the Judge states at paragraph 50 that "*The Appellant says he has a CSID card, although he… does not have it with him*", and concludes that he would not have any problems arising by reason of an absence of identification documents, that was an entirely sustainable conclusion. On that basis I reject the challenge made by the Appellant to the effect that the Judge had not offerd adequate reasons as to how the Appellant could obtain a CSID on return to Iraq.

16. As noted above, the Judge granting permission to appeal was less impressed with the alternative grounds, but nonetheless granted permission pursuant to those grounds. Mr Howard has briefly amplified those grounds before me today.

17. Ground 1 asserts that the First-tier Tribunal fell into error in applying the incorrect standard of proof. In this context it is acknowledged that the First-tier Tribunal Judge appropriately directed himself to the standard of proof at paragraph 5 of the Decision. However, a particular passage at paragraph 39 is alighted upon as indicating that the Judge misunderstood, or misapplied, the standard of proof. The passage is in these terms:

> "*I do not accept the Appellant's explanation that [S]'s father could not identify him because the light was dim and he could not see well. The only person who could tell him that her father could not*

recognise him (other than her father himself and I do not accept as probable that he would go to the trouble of telling him so during the claimed threatening telephone calls) was [S] who was dead."

18. It is the use of the word "*probable*" in that passage that is suggested to indicate misapplication of the standard of proof. I do not accept that that one instance - and Mr Howard confirms that there are no other examples to which my attention can be drawn - is indicative of the Judge misunderstanding the standard of proof applicable in a protection claim, or misapplying it generally to the facts and circumstances of the Appellant's case. It is to be noted that the Judge gives detailed reasoning in the Decision and the particular matter alighted upon is in itself parenthetic - quite literally in that it appears in a bracketed sub-clause to what is in any event only one peripheral aspect of the overall evaluation of the Appellant's narrative account. Even in isolation I am dubious as to whether it is illustrative of a misapplication of a standard of proof; in any event, I am not remotely persuaded that it is material to the overall consideration of the claim.

19. Ground 2 pleads that the Judge failed to apply 'country guidance'. Mr Howard acknowledges that this was in substance an annex to, or an aspect of, Ground 4 - with which I have already dealt.

20. Ground 3 pleads that the Judge erred in the approach to Article 8 by dealing with the Appellant's private life in the single, short paragraph 52 - indeed a paragraph of a single sentence (quoted above).

21. In my judgement context is significant in this regard. The appeal before the First-tier Tribunal took place on 16 March 2018, and therefore approximately only nine months after the Appellant's arrival in the United Kingdom. Whilst the Appellant did make passing reference to having "*friends and a private life in the United Kingdom that I will not be able to continue should I be returned to any part of Iraq today*" (paragraph 31 of his witness statement), he provided no supporting evidence of his private life or any supporting statements or information in respect of, or from, any of his friends. Whilst it is to be acknowledged that paragraph 276ADE(1) of the Immigration Rules was raised in the Appellant's skeleton argument (pages 15-16 of the Appellant's bundle before the First-tier Tribunal), no fact-specific details are pleaded in the Skeleton Argument: it has the appearance of nothing more than a rote submission without any reference to the individual facts of the case.

22. In all such circumstances it seems to me that whilst such extreme brevity is not ordinarily to be encouraged, the single sentence at paragraph 52 is -

in the very particular circumstances of this case - an adequate disposal of the Article 8 issues. The reality is that there was no substance to the Appellant's Article 8 claim, and to that extent I cannot see that a more full recitation or exploration of matters would have made any material difference to the outcome in this regard. Accordingly I also reject this line of challenge.

23. The remaining ground of appeal, Ground 5, is an allegation that the Judge failed to give adequate reasoning. The only specific illustration of this is that it is suggested that the Judge appeared to have expected the Appellant to provide a death certificate in respect of [S]'s killing. In my judgement this ground has no merits, either on its own or in combination with any of the other grounds. The reality is, again, that the Judge gave very careful and detailed consideration to the Appellant's case and explained the reasons why the Appellant's narrative account was rejected.

24. In all the circumstances I find no substance to the challenge to the decision of the First-tier Tribunal.

Notice of Decision

25. The decision of the First-tier Tribunal contained no material errors of law and stands.

26. The Appellant's appeal remains dismissed.

Direction Regarding Anonymity – Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008

Unless and until a Tribunal or court directs otherwise, the Appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify him or any member of his family. This direction applies both to the Appellant and to the Respondent. Failure to comply with this direction could lead to contempt of court proceedings.

The above represents a corrected transcript of ex tempore reasons given at the conclusion of the hearing.

Signed: Date: **14 May 2019**

Deputy Upper Tribunal Judge I A Lewis