



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

Appeal Number: PA/13327/2016

**THE IMMIGRATION ACTS**

**Heard at Bradford**

**On 3 October 2018**

**Decision & Reasons  
Promulgated  
On 24 January 2019**

**Before**

**UPPER TRIBUNAL JUDGE LANE**

**Between**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Appellant

**and**

**BR**

**(ANONYMITY DIRECTION MADE)**

Respondent

**Representation:**

For the Appellant: Mr Diwnycz, Senior Home Office Presenting Officer

For the Respondent: Mr Hussain, instructed by Halliday Reeves Law Firm

**DECISION AND REASONS**

1. I shall refer to the appellant as the respondent and the respondent as the appellant (as they appeared respectively before the First-tier Tribunal). The appellant, BR, was born in 1997 and is a male citizen of Iraq. He appealed to the First-tier Tribunal (Judge O'Neill) against a decision of the Secretary of State refusing him international protection. The First-tier Tribunal in a decision promulgated on 4 April 2018, dismissed the asylum appeal but allowed the appeal on humanitarian protection and Article 3

ECHR grounds. The Secretary of State now appeals, with permission, to the Upper Tribunal.

2. The judge comprehensively rejected the appellant's claim that there was a feud between the appellant's family and another family in Iraq such that the appellant has a well-founded fear of persecution or ill-treatment on return to that country. Indeed, at [30] *et seq* she rejected the entire credibility of the appellant's account of past events. However, following the country guidance decision in *AA (Iraq) [2017] EWCA Civ 944*) she found that the appellant could not return to his home area of Kirkuk and as an individual of Kurdish ethnicity without a CSID or other identity documents would be at risk on return to Baghdad, the city to which it is proposed to return the appellant. The grounds of appeal complain that the judge should have departed from the country guidance of *AA* in the light of evidence adduced before the First-tier Tribunal.
3. Before the Upper Tribunal, Mr Diwnycz, who appeared for the Secretary of State, accepted that, for the reasons given in the appellant's Rule 24 statement, Judge O'Neill did not err in law such that her decision falls to be set aside. He accepted that the judge had given reasons for relying upon the country guidance which, until it is superseded, continues to be valid. I agree that it was open to the judge for the reasons which she has given, to rely upon the country guidance. The evidence before her which had been adduced by the Secretary of State did not compel her to depart from the country guidance. In the circumstances, the appeal is dismissed.

### **Notice of Decision**

4. This appeal is dismissed.
5. An anonymity direction is made.

### **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 their 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.

Signed

Date 1 January 2019

Upper Tribunal Judge Lane

No fee is paid or payable and therefore there can be no fee award.

Signed

Date 10 January 2019

Upper Tribunal Judge Lane