Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: PA/13659/2018

THE IMMIGRATION ACTS

Heard at Manchester CJC	**Decision & Reasons Promulgated**
On 11th June 2019	**On 24th July 2019**

Before

DEPUTY UPPER TRIBUNAL JUDGE JUSS

Between

AM
(ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:
For the Appellant: Mr F Azil (Solicitor)
For the Respondent: Mr C Bates (Senior HOPO)

DETERMINATION AND REASONS

1. This is an appeal against the determination of First-tier Tribunal Judge Buckley, promulgated on 6th March 2019, following a hearing at Manchester on 28th February 2019. In the determination, the judge dismissed the appeal of the Appellant, whereupon the Appellant subsequently applied for, and was granted, permission to appeal to the Upper Tribunal, and thus the matter comes before me.

The Appellant

2. The Appellant is a male, a citizen of Iraq, and was born on 4th July 1994. He appealed against the decision of the Respondent refusing his claim for asylum and for humanitarian protection pursuant to paragraph 329C of HC 395, in the decision that was dated 23rd November 2018.

The Appellant's Claim

3. The essence of the Appellant's claim is that his father was working for the Iraqi military and was a member of the Ba'ath Party. He himself was a university graduate in environmental sciences. He began working as a volunteer for a non-governmental organisation in 2016. One of the organisations he worked for was Oxfam. He continued working with Shabang to help poor people who needed food and clothes. In 2017 the Appellant went to help with the emergency response team. In March 2018, however, a member of the Haashd Al Shaabi ("HAS") came to visit the Appellant with four bodyguards. They asked the Appellant to work for them. The Appellant said he would get back to them. He told his manager. The manager could not do anything to help the Appellant because the HAS was part of the PMF, which had powerful influence in the area. The PMF was the Popular Mobilisation Forces. The Appellant relocated to another area. He took his father's military book and the Garmain Shabang certificate when he left the area of Tuz Khurmatu, where he was based. The personal documents, including books, were put in a bag which the Appellant left at his friend Howre'y's house. Howre'y subsequently posted the documents to the Appellant before arriving in the UK.

4. The Appellant now claims that he could not return because of an inability to obtain his CSID card, given that his home is a contested area and he will not be able to approach the civil registry office in Tuz Khurmatu. He is likely to face destitution. This is because of the lack of a CSID card. He will not secure employment. He will not be able to return directly to the IKR. In fact, it is not likely that he would be able to board a flight from Baghdad to the IKR.

The Judge's Findings

5. The judge dismissed the Appellant's appeal. He accepted that there was no challenge to the evidence that the Appellant was a voluntary worker when he was in Iraq (see paragraph 27). However, it was the Appellant's case that there was an arrest warrant out in his name and he could not return. The judge observed that, "the evidence is clear that the Appellant never had sight of this, and seeks to rely on what his mother told him over the phone." The judge went on to explain that "I do not have statement from the Appellant's mother, or a copy of the arrest warrant." He went onto say that, "… I am being invited to accept the Appellant's own narrative for this, with no corroborating evidence" (paragraph 30). Second, the judge was not satisfied that the Appellant would not be able to procure his CSID card which he had left at his friend's home in Sulaymaniyah. This is because he had, by his own admission, left

documents in a bag with his friend, and many of these had then been sent over to him in the United Kingdom. That being so, the strictures of the latest country guidance cases, which culminated in the case of **AAH (Iraqi Kurds – internal relocation) Iraq CG UKUT 00212** were not violated because the appellant would have the means of getting a duplicate CSID card on the basis of the information that was already known to be in existence.

6. The appeal was dismissed.

Grounds of Application

7. The grounds of application state that the judge erred materially in his findings because he had said (at paragraph 30) that "I am being invited to accept the Appellant's own narrative for this, with no corroborating evidence", when referring to the existence of an arrest warrant, because it is well-known in asylum law that corroboration of the evidence is not a requirement. The grounds also asserted that the judge was wrong in coming to the conclusion that the Appellant would be able to relocate internally because he would have access to a CSID card. This was wrong because "the appellant clarified in cross-examination that his CSID card was not in the bag of safe documents" (see paragraph 11 of Ground 3).

8. Permission to appeal was granted on 9th April 2019.

Submissions

9. At the hearing before me, on 11th June 2019, Mr Azil, emphasised the grounds of application and stated that these amounted to three separate claims of the judge having erred in law. First, there was the issue about the judge requiring corroboration of the existence of the arrest warrant. Second, there was a question about the Appellant having access to his CSID card when in cross-examination he had made it quite clear that he did not have a CSID card and would not be in a position to return on account of his absence. Third, the latest country guidance case of **AAH (Iraq)** makes it clear (at paragraph 26) the process that must be followed before a CSID card can be obtained by proxy. One such requirement is the production of the appellant's Iraqi passport which he does not hold and proof of the status in the country where he is applying, namely the UK. (See paragraph 15).

10. For his part, Mr Bates submitted that first, the judge had not asked for corroboration at all. What he had said was that in the absence of there being no documentary evidence of the arrest warrant before him, he had no way of being able to ascertain the veracity of the claim being made before him, in circumstances where he did not believe the Appellant in any event. Second, that it was not the case that the Appellant did not have his CSID card because during his asylum interview he had made it quite clear (see question 30) that he did have a CSID card in Iraq. That meant that he would now be able to have access to it. Third, if this was the case then

there would be no difficulty at all in the Appellant being able to acquire the necessary documentation to enable him to travel in Iraq and the issue of a use of a proxy for the purpose of a CSID card did not arise.

No Error of Law

11. I am satisfied that the making of the decision by the judge did not involve the making of an error on a point of law (see Section 12(1) of TCEA 2007) such that I should set aside the decision. My reasons are as follows.

12. First, it is indeed not the case that the judge required there to be corroboration of the existence of an arrest warrant. It was the Appellant's claim that there was an arrest warrant in existence. This had not been produced before the Tribunal. All that was being said was that the Appellant's mother had sight of it. However, as the judge made it quite clear "I do not have a statement from the Appellant's mother". The judge then, in that context, went on to say that "I'm being invited to accept the Appellant's own narrative for this". It is not the case that required corroboration in order to be able to come to that conclusion. This is because as the judge made it only too plain, "as I have found the Appellant to be evasive, vague and inconsistent, I cannot accept on the evidence that such a warrant existed" (paragraph 30). All too often in appeals before the Upper Tribunal, the very fact that a judge below has made reference to 'uncorroborated' evidence is used as a basis to appeal that decision. The use of the word "corroboration" does not necessarily mean that the judge is seeking to decide the matter before him only on the basis of the existence of corroborative evidence or not. This is a case in point. The judge was simply making the observation that there was no arrest warrant in existence. There was no statement from the mother. All there was before him was the Appellant's own narrative. That narrative, the judge had found to be "evasive, vague and inconsistent". It is this that formed the basis of the judge's decision. The judge was entitled to make that decision.

13. Second, there is the issue of the Appellant having access to his CSID card. Despite what has been stated (see paragraph 11 of the grounds) subsequently, when the Appellant was first questioned during his asylum interview, he made it quite clear that he did have both his passport and his CSID card. The question that was put to him (question 30) was "what identity documents did you have in Iraq?" The Appellant replied "passport and Iraqi CSID card". It is only subsequently that he had then gone on to say that he had not used his own passport but used a false passport in order to leave Iraq (question 34).

14. In any event, the judge was correct in summarising the fact on the basis that

> "He reports that he took a bag of important documents – including a passport and his CSID card – to his friend's home in Sulaymaniyah.

> The Appellant confirmed in oral evidence that it did contain his CSID card, and that he maintains in contact with his friend, Horey, who has sent the Appellant documents since he arrived in the UK" (paragraph 32).

15. It was in these circumstances, that the judge came to the conclusion that the Appellant was not a person without the necessary documentation that would be required for him to be able to return to Iraq. Indeed, the judge observes that,

> "I also find that the Appellant has not been honest regarding the whereabouts of his CSID card. The Appellant has confirmed in oral evidence that the CSID was in the bag that he took to his friends and left there; however, he has not asked for this to be sent, only the certificate and the father's military book. As stated above, it is inconsistent that the Appellant would not take steps to request that CSID card if sent to him also, to assist in returning" (see paragraph 42).

16. That is how the matter fell to be decided by the judge. The judge so decided on the evidence that was before him. It is simply not possible to see how the decision arrived at was not in compliance with the latest country guidance case. The decision is entirely sustainable and there is no error of law.

Decision

The decision of the First-tier Tribunal does not involve an error of law. The decision shall stand.

An anonymity direction is made.

This appeal is refused.

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 Dated

Deputy Upper Tribunal Judge Juss 12th July 2019