



**Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: PA/11275/2019**

THE IMMIGRATION ACTS

**Heard remotely via Skype for Business
On 17 March 2021**

**Decision & Reasons
Promulgated
On 25 March 2021**

Before

UPPER TRIBUNAL JUDGE LANE

Between

**MMR
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Spurling

For the Respondent: Mr McVeety, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant, a Kurdish citizen of Iraq born in 1985, appealed to the First-tier Tribunal against a decision of the Secretary of State dated 1 November 2019 refusing him international protection. The First-tier Tribunal, in a decision promulgated on 18 February 2020, dismissed his appeal. The appellant now appeals, with permission, to the Upper Tribunal.
2. The appellant was not represented before the First-tier Tribunal or on his application to the Upper Tribunal for permission to appeal. He was represented by Mr Spurling of Counsel at the initial hearing in the Upper Tribunal. Rather than address in detail the appellant's grounds of appeal, I shall structure my decision by reference to the grant of permission of Upper Tribunal Judge Bruce. Judge Bruce refused permission to the appellant to challenge the findings of the First-tier Tribunal regarding credibility. At [3], Judge Bruce, referring to the 'issue of documentation and the appellant's ability to get from Baghdad to a place of safety', she sets out why she considered it arguable that the judge may have fallen into legal error. I shall consider under the follow two headings the four sub-paragraphs of [3] which contain Judge Bruce's grant of permission:

Was it reasonably likely that the appellant would be unable to re-document himself?

3. Save for his ethnicity, nationality and the location of his home area in Iraq, the judge did not accept as reliable any part of the appellant's evidence. There is no permission for the Upper Tribunal to revisit the findings on credibility. At [33], the judge rejected the appellant's claim that he has no family members within Iraq who can assist him. At [36], the judge found that he saw no reason 'why [the appellant] cannot obtain *existing* or new identity documents within a reasonable time if required.' [my emphasis]. Those findings follow on from the judge's specific finding [32] that he did not believe the appellant's account of how he had lost his identity documents. It is certainly true that, in addition to referring to existing identity documents, the judge also discusses the appellant's ability to 're-document' himself. However, a careful reading of the decision makes clear that the judge considered that the appellant (i) had not lost his identity documents (ii) if he does not possess the documents at this time, his family, with whom he is in touch, will assist him to re-possess them. If that finding is sound, the fact that the judge may have made alternative findings (regarding the processes of re-documentation) which may be arguably unsound is immaterial. Given the comprehensive rejection by the judge of the appellant's credibility, I consider that he was entitled to finding that the appellant would be able to use documents which he either holds now or which his family will assist his to obtain to enter and move within Iraq. In the light of that finding, Judge Bruce's second and fourth sub-paragraphs (whether it was open to the judge to find that the Iraqi Consular authorities in the United Kingdom would assist the appellant and whether the civil registry in Khanaqin continues to issue CSIDs as opposed to INIDs) are not relevant; as the appellant could use his *existing* identity documents, it will not be necessary for him to engage with the Iraqi Consulate in the United Kingdom or the civil registry in Kahnaqin or, indeed, elsewhere in Iraq.

Did the judge err in law by failing to have regard to the fact that the appellant is from Khanaqin where the Upper Tribunal in *SMO, KSP and IM (Article 15(c);identity documents) Iraq CG [2019] UKUT 400 [272]* has found that there are higher levels of ISIL activity and violence?

4. The appellant was born in Jabara but it appears that his evidence relates to his home and family being in Jalawla and not Khanaqin. Mr Spurling (at the risk of giving evidence) told me that Khanaqin and Jalawla are about 30 km apart. He submitted that, because they are so proximate, it made no difference which of the two cities constituted the appellant's home area. That submission may have some force but, equally, I am not satisfied that the judge has erred in his assessment, made by reference to country guidance and background material, of the risks which the appellant and his family would encounter in Jalawla. I accept Mr McVeety's submission that the appellant is a Kurdish male who has none of the characteristics which would arguably expose him to risk and which are detailed in the headnote and [314] of *SMO*. As such, he is not at real risk on return to Jalawla which, for the reasons given at [3] above, he will be able to reach safely from Baghdad.
5. For the reasons I have given I am satisfied that the judge's decision is not vitiated by legal error. Accordingly, the appeal is dismissed.

Notice of Decision

The appeal is dismissed.

Signed
Upper Tribunal Judge Lane

Date 17 March 2021

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

Unless and until a Tribunal or court directs otherwise, the appellants are granted anonymity. No report of these proceedings shall directly or indirectly identify them or any member of their family. This direction applies both to the appellants and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.