Upper Tribunal
(Immigration and Asylum Chamber) **Appeal Number: PA/03621/2020**

THE IMMIGRATION ACTS

Heard at Birmingham CJC	**Decision & Reasons Promulgated**
On the 17 March 2022	**On the 13 April 2022**

Before

UPPER TRIBUNAL JUDGE HANSON

Between

SDSR
(Anonymity direction made)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:
For the Appellant: Mr Singh of Hanson Law Ltd
For the Respondent: Mr Williams, a Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant appeals with permission a decision of First-tier Tribunal Judge Anthony ('the Judge') promulgated on 17 May 2021 in which the Judge dismissed the appeal on all grounds.

2. Permission to appeal was granted to the appellant in part on an application renewed directly to the Upper Tribunal on Grounds 2 and 7 only.

3. In relation to the Ground 2, the appellant had pleaded:

Ground 2: The IJ erred in considering objective evidence

5. At [37] of the determination the IJ does not accept that according to background evidence that the Appellant's family will not be targeted. The IJ does not mention which background evidence is referring to, as earlier on in the determination at [23 – 27] when referring to background evidence it does not say that the Appellant's family will or will not be targeted. Furthermore, objective evidence is not a 'one size fits all' scenario it must be considered according to the Appellant circumstances which the IJ does not do. Thirdly, the IJ then contradicts himself to say that:

   Whilst I accept that the ultimate target would be the appellant

6. The main point which the Appellant has stated is that he is the wanted person and not his family as he had committed the crime.

4. In granting permission the Upper Tribunal found "*it is arguable, namely that the judge failed to identify the background evidence he relied upon (and therefore substantiated) his reasoning at [37] why it was inconsistent with that evidence that the appellant's family had not been threatened"*.

5. As in any appeal it is important to read this determination as a whole. The Judge sets out findings of fact from [28] dealing with the alleged problems in Iraq experienced by the appellant due to an alleged relationship with S between [29 – 46]. At [37] the Judge writes:

37 Furthermore, even though the matter of honour affects both families, the appellant has not said that his family were threatened claiming his substantive interview that the threat was only against him. I find this is not consistent with the background material. Whilst I accept the ultimate target will be the appellant, it would seem unlikely that there was no retribution against this family.

6. It is fair comment made in the grounds that the Judge does not set out any reference to the background material which is said to be the basis of this finding. Even if that was sufficient to amount to a legal error, in light of the accepted principle that a judge is not required to set out each and every aspect of the evidence considered, any such error is not material. The Judge makes twelve adverse findings at paragraphs [31, 33, 35, 36, 37, 38, 39, 40, 41, 42, 43, and 44] in support of the overall conclusion that the Judge sets out at [46]; which is in the following terms:

46. Having considered each aspect of the appellant's account, I reached the conclusion that the appellant has not discharged the burden of proof to the low standard that he was in a relationship and eloped with S. I find the appellant has not been able to provide answers to basic questions going to the core of his account such as the location of the school where they met and the location of S's house. He has not remained consistent on other key matters such as when and how he ceased having contact with his family, the name of the neighbourhood and the 27 July 2018 attack. Important aspects of his account were not consistent with the background material such as a lack of retribution from S's family against his family and his own family's treatment of him. There were also aspects of his account which were implausible such as S's father continuing to allow her to attend school and the timing of their

escape. There were aspects which could have been corroborated (which have not been) such as the abduction in Turkey.

7. It is not made out that even if Ground 2 was found in the appellant's favour this is sufficient to undermine the other extensive and adequately reasoned findings that the appellant had not made out his claim.

8. Ground 7 asserts the Judge erred in considering the relevant country guidance case for the following reasons:

15. At [51 – 52] of the determination the IJ has stated that the Appellant can return with a Laissez Passer. **This is incorrect. At [12] SMO states that:**

A Laissez Passer will be of no assistance in the absence of a CSID or an INID;

If the IJ at [55] of the determination has stated that the Appellant can obtain the information of his CSID from his family, that the Appellant has brought shame to his family, and he has no contact with them so therefore this is not possible. Furthermore, the IJ at [56] of the determination states that the Appellant could remember the family book. However, the Court of Appeal in a PTA decision by Master Bancroft Rimmer made on 16.02.2 thousand twenty-one has granted permission in relation to whether or not most Iraqis can remember the volume and page number in their family book.

The Respondent's June 2020 CPIN states that the Appellant cannot not obtain a CPIN card from the Iraqi Embassy.

9. Permission to appeal was granted by the Upper Tribunal as it was said to be arguable that the Judge had erred in law in finding that the appellant will be able to obtain documentation (in particular a CSID) to safely return to Iraq. The point about the laissez-passer at [51]-[53] is about returnability and not risk within Iraq. However, the judge's reliance on headnote (13) of SMO and others ([391] of the decision) and knowledge of "family book" details falls into the same error as the Court of Appeal identified remitting that case to the UT. The alternative finding at [55] that his family can obtain a CSID for him fails to grapple with the availability of such documents in Iraq now. Even if the adverse credibility findings are sustainable, it is arguable that the Art 3 risk to the appellant without relevant ID documents has not been properly assessed.

10. The difficulty for the appellant in making out material error in relation to the documentation issue, with particular reference to his CSID, is the reply he gave in his interview that his CSID was left at home. This is not a case in which the Judge is suggesting a fresh CSID could be obtained, as clearly they have been phased out by the Iraqi authorities, but that that which has already been issued can be sent to the appellant which will enable him to travel safely within Iraq.

11. I find therefore it has not been made out the Judge has materially erred in law the reasons set out at Ground 7 which is also fatally flawed as it is predicated on the basis the appellant could not contact his family, yet the reasons he relies on for not doing so have been shown to lack credibility. The Judge finds that such contact can be made.

12. If following the handing down of the further country guidance in the case commonly referred to as SMO 2 other issues arise, the appellant can always seek advice from his representatives as to whether he has any basis for a valid credible fresh claim.

Decision

13. There is no material error of law in the Immigration Judge's decision. The determination shall stand.

Anonymity.

14. The First-tier Tribunal made an order pursuant to rule 45(4)(i) of the Asylum and Immigration Tribunal (Procedure) Rules 2005.

I make such order pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008.

Signed…….
Upper Tribunal Judge Hanson

Dated 17 March 2022