



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2022-000689

FtT No: PA-01128-2020

THE IMMIGRATION ACTS

Decision & Reasons Issued:
On 10th of October 2023

Before

UPPER TRIBUNAL JUDGE MACLEMAN

Between

ROUKAN AZAD HUSSEIN
(no anonymity order made)

Appellant

and

S S H D

Respondent

Heard at Edinburgh on 4 October 2023

For the Appellant: Mr B Kadirgolam, of Ethnic Minorities Law Centre, Glasgow
For the Respondent: Mr M Diwyncz, Senior Home Office Presenting Officer

DECISION AND REASONS

1. FtT Judge Buchanan dismissed the appellant's appeal by a decision promulgated on 21 October 2021.
2. The appellant sought permission to appeal to the UT on two grounds - (1), "use of proxy", alleging error in that the appellant has no passport, would be unable to use a proxy to obtain a civil status identity document (CSID), and would be at risk travelling from Baghdad to his home area, and (2), "validity of CSID", alleging misinterpretation of evidence on the period of validity of an identity document.
3. On 26 November 2021, FtT Judge Adio refused permission. On (1), the decision was in line with country guidance on use of a proxy. On (2), the appellant had not shown that an expired CSID could not be renewed in his home area.
4. The appellant applied to the UT for permission. On 18 January 2023, UT Judge Lindsley granted permission. She did not find either ground to be arguable, as

country guidance does not indicate that a passport is needed to acquire a new CSID via a proxy; but she continued:-

However, I find it *Robinson* obviously arguable that the FtT erred in law in finding that the appellant needed to show whether his CSA office in Jalawla in Diyala operated the new INID rather than the old CSID system at paragraph 26.3 when the respondent agreed in *SMO* that where it was clear which CSA office was the relevant one that she would make enquiries, as per paragraph 13 of the headnote. This was the respondent's position at the time when *SMO* was heard which was exactly the same time as this appeal was heard.

5. At the beginning of the hearing Mr Diwyncz provided information from the respondent dated 5 September 2023, based on source material dated 17 August 2023, which indicates that all CSA offices in Iraq are now issuing the Iraq National Identity Card (INID) and none are issuing the CSID. (This will be included in the respondent's next Country Policy and Information Note.) He did not concede that the FtT made any error on the case before it, but said this might be relevant if the case went beyond that stage.
6. Mr Kadirgolam submitted that the appellant has no passport, never had one, and cannot obtain one; his CSID, even if he could retrieve it, would no longer be valid; he has only a small old-fashioned mobile phone provided by the respondent, on which he cannot make calls or access the internet to contact his relatives; he receives only minimal support of around £43 a week, and so cannot afford to contact them; he was not accepted by the Iraqi authorities when returned voluntarily in 2009; the medical report from 2019 showed his mental health difficulties; these should be taken into account when considering the problems he would have on return; after 20 years outside the country, he could not be expected now to recall his registration details; he has no family member or anyone else to help him and so cannot obtain identity documents either in the UK or in Iraq; the critical aspect of having no identity documents is that he could not access employment; due to his mental health issues and the stress he has suffered for over 20 years, he is in any event not fit for work; and the FtT's decision should be reversed.
7. Mr Diwyncz accepted that if from Jalawla in the Diyala Governorate, the appellant would be returned via Baghdad rather than to the IKR; in that case, documentation might be an issue; and the respondent's decision analysed the case on the hypothesis of an origin in Jalawla. However, the difficulty for the appellant was that he had not established anything beyond being a Sunni Kurd from Iraq. No error had been shown in the FtT's entirely negative findings on the rest of the evidence for the appellant. Its decision should stand.
8. Mr Kadirgolam replied that as Jalawla is accepted to be an area under direct control of the Iraqi government (rather than part of the IKR) the appellant would have to travel there from Baghdad; checkpoints *en route* are controlled by Shia militias; the appellant, as a Sunni Kurd would be at risk; and the militias do not accept a passport as evidence of identity.
9. I reserved my decision.

10. The submissions for the appellant sought to resurrect grounds (1) and (2), but those did not attract a grant of permission, for the reasons clearly given by FtT Judge Adio and UT Judge Lindsley. In any event, having been further ventilated, the grounds disclose no error.
11. Mr Kadirgolam did his best to advance the appellant's position, but unfortunately, that consisted of general insistence on the case put to the FtT, rather than identification of any legal error in the tribunal's resolution of it.
12. Assertions were made in submissions about the appellant's place of origin, having no family, no contacts, no available documents, and so on, but Mr Kadirgolam was unable to direct me to any concessions by the respondent or findings by tribunals to support the basis on which those submissions were made.
13. The assertions for the appellant are contrary to the conclusions by the FtT; which in turn were based on a long history of adverse conclusions. His asylum claim was rejected in 2014 as "a complete fabrication". At 28.1, the decision now under appeal holds that the appellant "cannot be relied upon to provide reliable evidence on even the basics of his background". That includes which part of Iraq he is from – see 29, 29.1, and 33.1, where he is found unreliable "even on his birthplace and place of last residence".
14. The appellant has not shown the FtT's analysis of how he might proceed, if he is from Jalawla, to be legally flawed, based on country guidance and the evidence at the relevant time; but, in any event, he glosses over the reality that such analysis was only a hypothesis, for which he failed to establish the starting point.
15. The appellant has not shown that the FtT erred on any point of law. Its decision shall stand.
16. The FtT did not make an anonymity order. There is no need for anonymity in the UT.

Hugh Macleman
Judge of the Upper Tribunal, Immigration and Asylum Chamber
4 October 2023