



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2024-002170

First-tier Tribunal No: PA/52030/2023
LP/00630/2024

THE IMMIGRATION ACTS

Decided without a hearing

**Decision & Reasons Issued:
On 16 August 2024**

Before

UPPER TRIBUNAL JUDGE BLUNDELL

Between

**AB
(ANONYMITY ORDER MADE)**

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Order Regarding Anonymity

Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, the appellant is granted anonymity. No-one shall publish or reveal any information, including the name or address of the appellant, likely to lead members of the public to identify the appellant. Failure to comply with this order could amount to a contempt of court. This order is made on account of the fact that the appellant is an asylum seeker.

DECISION AND REASONS

1. The appellant appeals with the permission of Judge Bulpitt against the decision of Judge Parkes, who dismissed his appeal against the respondent's refusal of his claim for international protection.
2. The appellant is a Kurd from the IKR of Iraq. His asylum claim was originally based on an assertion that he was at risk from a senior figure in the KDP because the appellant had been in a forbidden relationship with his daughter. He subsequently augmented that claim with reference to sur place activity he had been undertaking in the UK by posting criticism of the Kurdish authorities on Facebook.

3. Judge Parkes did not accept that the honour-based claim was true. He made no reference to the sur place claim. That omission caused Judge Bulpitt to grant permission to appeal, although he granted permission on each of the five grounds.
4. By a rule 24 notice dated 20 May 2024, the Secretary of State accepted that Judge Parkes had erred materially in law and invited the Upper Tribunal to set aside his decision and remit the matter to the FtT for hearing afresh.
5. I am satisfied that that concession is properly made. As the Secretary of State notes in the rule 24 response, the judge made no reference at all to the fact that the appellant's bundle contained an expert report from Dr Rebwar Fatah, an acknowledged expert on Iraq and the IKR in particular. That report was relevant to the appellant's credibility and to the assessment of risk. The judge did not consider it in either connection.
6. It is also notable that the judge made no reference to the appellant's sur place claim. Those activities were detailed in the witness statement. There was evidence in support of those activities. The expert report contained a section (section 7) dealing with that question. The failure to consider this issue is a further error of law.
7. Finally, I note that the appellant maintained in his witness statement that he had no civil status documents and that he would be unable to obtain replacements. That issue was not considered by the judge, despite the fact that ten or so pages of the expert report dealt with the issue.
8. The FtT is a specialist tribunal which is expected to know and apply the law correctly. It is required to give its reasons in sufficient detail to enable the parties to understand why they have won and lost, however. Where, as here, issues and evidence have been left wholly out of account by the judge at first instance, the decision does not provide such reasons.
9. I am satisfied that the Secretary of State is correct to submit that the decision cannot stand, and that the proper course is to remit the appeal to be heard afresh by a judge other than Judge Parkes. It is neither necessary nor desirable to hold a hearing to reach that inevitable conclusion, and I am satisfied that it is in accordance with the overriding objective to determine the appeal on the papers, under rule 34.

Notice of Decision

The appellant's appeal is allowed. The decision of the FtT is set aside. The appeal is remitted to be heard afresh by a judge other than Judge Parkes.

Mark Blundell

Judge of the Upper Tribunal
Immigration and Asylum Chamber

5 August 2024