



**Upper Tribunal  
(Immigration and Asylum Chamber)  
PA/01394/2016**

**Appeal Number:**

**THE IMMIGRATION ACTS**

**Heard at Birmingham Employment  
Tribunal  
on 11 May 2017**

**Decision & Reasons  
Promulgated  
on 16 May 2017**

**Before**

**UPPER TRIBUNAL JUDGE HANSON  
DEPUTY UPPER TRIBUNAL JUDGE ROBERTSON**

**Between**

**Z A M A  
(ANONYMITY DIRECTION MADE)**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr Howard of Fountain Solicitors.  
For the Respondent: Mr C Bates - Senior Home Office Presenting Officer

**DECISION AND REASONS**

1. This is an appeal against a decision of First-tier Tribunal Judge Asjad ('the Judge') who in a decision promulgated on 15 September 2006 dismissed the appellant's protection claim and claim for leave to remain based on his human rights.

**Background**

2. The appellant is a national of Iraq born in 1997 who entered the UK in August 2015, and who claimed asylum shortly thereafter. The appellant claimed to be of Kurdish ethnicity and to have been born in Suleiman Beg (also referred to as Sulayman Beg) in Iraq. He claims his

father was a member of the Ba'ath party who was involved with killing Peshmerga, although his father later joined this group following the fall of Saddam Hussein. The appellant claims that when ISIS entered his village in March or April 2015 he was forced to flee to a refugee camp in Kirkuk with his family. The appellant claims he cannot return to Iraq because of his fear of ISIS, his ethnicity, and his father's involvement with the two named groups.

3. The Judge having considered the evidence with the required degree of anxious scrutiny sets out the findings of fact from [14] to [21] of the decision under challenge. Those findings may be summarised as follows:

- Although it is accepted the appellant is a Kurdish Iraqi it was not accepted that he had ever lived in Suleiman Beg (Sulayman Beg) for the reasons set out in [14].
- The appellant's account has been inconsistent and it was found the appellant had changed his account having established that it was at complete odds with historical events. The fact the appellant did not know when ISIS entered Suleiman Beg (Sulayman Beg), taken with his lack of knowledge of the borders and what river flows through his alleged home area, supported the conclusion that the appellant was not from that area at all. [14]
- The appellant's account regarding his father's activities was haphazard and inconsistent. Cross examination revealed holes in his evidence that he found difficult to explain. The appellant's answer as to how his father managed to survive having changed sides after the war was "indicative of the appellant making up answers as he went along". The Judge found "the appellant's evidence - was all over the place - and simply had no credibility to it whatsoever. It is also clear from the evidence that from 2003 to 2015, the appellant was able to live in Iraq without any difficulty at all". [15]
- It was not found the appellant's father was a member of either of the claimed groups which was found to be a fabricated account which the appellant was unable to uphold because when tested it simply "made no sense". [16]
- The appellant accepts that he has some family in the KRG and although he claims to have no contact with them the only evidence to support that assertion comes from the appellant himself. No weight was placed upon the appellant's testimony in light of the adverse credibility findings made. The Judge found other family members have remained in Iraq. [16]
- The appellant is likely to be from the KRG. [17]
- It was the appellant's own evidence that he had worked as a baker and was unable to give any examples of discrimination that he had himself faced. [17]
- Although accepting the appellant cannot return to Baghdad as he had not the requisite papers, it was found that relocation to the KRG was viable in this case. [19]

- The appellant could seek assistance from family in Iraq during the period of relocation. He is of Kurdish ethnicity, speaks Kurdish Sorani and has members of his family in Iraq. Relocation to the KRG is reasonable in all the circumstances. [20]
- The appellant's assertion that relocation would lead to very significant obstacles was rejected. It was found such a high threshold had not been met. There is nothing compelling or exceptional about the case that merited consideration of article 8 outside the Rules. [21]

### **Grounds**

4. The appellant's original grounds asserted the Judge failed to adequately apply the country guidance case and in contending that his relocation to the KRG was viable, the Judge had failed to adequately assess the practicality of relocation and failed to adequately assess whether the appellant would likely secure employment in the KRG (referred to in the grounds as the IKR). It was also asserted that the Judge gave inadequate reasons for not accepting that there will be very significant obstacles to the appellant's return to Iraq.
5. The renewed grounds of challenge rely on the same pleadings which were further relied upon by Mr Howard in his oral submissions to the Upper Tribunal. The initial grounds also contain a reasons challenge, asserting the Judge had not given adequate reasons for not accepting the appellant's claim regarding where he came from, and inadequate reasons for not accepting that his father was a member of the Ba'ath party.

### **Error of law**

6. We indicated at the start of the hearing that, following detailed consideration of the merits of the case on the papers, our preliminary view was that the dismissal of the appeal by the Judge was a finding reasonably open to the First-tier Tribunal based on the available evidence.
7. The Judge gave adequate reasons for finding the appellant had not proved that he came from Suleiman Beg (Sulayman Beg). The Judge refers in [14] to the inability of the appellant to answer two questions relevant to the area which would have been known by someone who claimed to have lived there, the fact the appellant wrongly identified the nearest border to that town, and claimed a river runs through Kirkuk when the Judge notes that there is no river running through that city. The Judge noted that the appellant's claim that ISIS came to that area in March or April 2015 was "so off the mark that he could not have been living in the area at all". As noted in the reasons for refusal letter, Suleiman Beg (Sulayman Beg) was liberated from ISIS by the Iraqi and Kurdish forces and Shia armed volunteers in September 2014. There is no evidence of this area being subsequently reoccupied by ISIS.

8. The Judge gives adequate reasons for rejecting the appellant's account regarding his father's activities which, having had the benefit of considering both the oral and written evidence, was described as "haphazard and inconsistent". The Judge found that the claim regarding the appellant's father's activities was a fabricated account which did not withstand testing. The grounds amount to a mere disagreement with such a conclusion.
9. The grounds challenge the failure of the Judge to assess the reasonableness of relocating to the Kurdish zone but, as the Judge found at [17], it is likely that the appellant is from the KRG. This is not an issue of relocation to an area of which he has no previous knowledge or experience but a return to his home area where he has worked, has family, speaks the language, and has the requisite Kurdish ethnicity. The Judge gives adequate reasons for finding that the appellant will be able to re-establish himself in his home area where there is family support available. It has not been made out on the evidence before the Judge, or in any of the documents we have had the opportunity to consider, that the appellant will face any real risk on return or that it would not be reasonable in all the circumstances for him to return to his home area.
10. The country guidance case referred to by the Judge at [19] deals with the lack of risk on return to the Kurdish zone for those eligible to enter. As the appellant originates from that area he will be pre-cleared by the Kurdish authorities, meaning he will fly straight into the international airport at Sulaymaniyah without having to transit via Baghdad.
11. The Judge has given adequate reasons for why the appellant is unable to succeed under paragraph 276ADE (iv), in light of the fact he can return to his home area safely, without risk. The appellant has not made out that he can satisfy the requisite test or to show that the decision was not proportionate. Whilst the reasoning in relation to this latter element may be brief, a reading of the decision shows that relevant aspects were considered by the Judge who has given adequate reasons in support of the findings made.
12. As we indicated at the conclusion of the hearing, our preliminary view was not changed by the additional submissions made and accordingly this appeal is dismissed.

## **Decision**

- 13. There is no material error of law in the First-tier Tribunal 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.
15. We make such an order pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008.

Signed.....  
Upper Tribunal Judge Hanson  
Dated the 1<sup>st</sup> of May 2017