



**Upper Tribunal
(Immigration and Asylum Chamber)**

Appeal Number: PA/08516/2016

THE IMMIGRATION ACTS

**Heard at Field House
On 30 October 2017**

**Decision & Reasons
Promulgated
On 14 November 2017**

Before

DEPUTY UPPER TRIBUNAL JUDGE SHERIDAN

Between

**HMA
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation

For the Appellant: Mr S Harding, Counsel instructed by Sentinel Solicitors
For the Respondent: Mr P Singh, Home Office Presenting Officer

Direction Regarding Anonymity

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

DECISION AND REASONS

1. The appellant is a citizen of Iraq born in October 1997 whose protection claim was refused by the respondent. His subsequent appeal to the First-

tier Tribunal was heard by Judge Lawrence. In a decision promulgated on 30 March 2017, the appeal was dismissed. The appellant is now appealing against that decision.

2. The appellant's father was an Iraqi diplomat and the appellant initially arrived in the United Kingdom on 9 July 2013 on a diplomatic dependant visa. In August 2015 the appellant's father informed him that the family would be returning to Iraq. The appellant left his family home and claimed asylum.
3. The appellant's claim, in summary, is that he faces a risk to his life on return to Iraq because he is a Sunni Muslim with a distinctive surname which links him to Saddam Hussein and a well-known Sunni town. He claims that his name enhances the risk he faces as a Sunni. He further claims to be at risk of kidnapping because he has been living in the west.
4. Judge Lawrence dismissed the appellant's appeal for several reasons.
 - (a) Firstly, he noted that the appellant had described in his statement an incident where he was stopped and questioned at a checkpoint because of his name but allowed to pass because his first name is a common *Shia* name notwithstanding his last name possibly links him to a predominantly Sunni city.
 - (b) Secondly, he did not accept the appellant's account of being in Iraq in 2014 which is when the above described incident at a checkpoint was said to have taken place given the absence of evidence to support this.
 - (c) Thirdly, he thought the appellant's claim to fear Islamic State was without merit as he had never been to territories they control.
5. The grounds of appeal argue that the judge failed to make an adequate finding on whether the appellant is Sunni and the risk he faces as a Sunni. They also argue that the judge failed to address the risk he faces of kidnapping as a returnee from the west. A further argument in the grounds is that the judge has not addressed the risk arising from the appellant's name which it is alleged shares key elements with Saddam Hussein.
6. Before me, Mr Harding reiterated many of the points made in the grounds of appeal. He stressed that the appellant is a Sunni and faces a risk because of this. Properly interpreted, in his view, the recent country guidance case of *BA (returns to Baghdad) Iraq CG* [2017] UKUT 00018 (IAC) recognises that being a Sunni is a factor relevant to risk, as is having lived in the west and the risk of kidnapping, particularly at checkpoints from Shia militia. He argued that the judge failed to consider these points and that taken cumulatively the appellant would be at risk. He also highlighted the similarities between the appellant's name and Saddam Hussein and argued the judge had failed to address the increased risk to

the appellant arising from this. He further argued that the judge had dismissed the core arguments of the appellant without giving adequate reasons for doing so.


7. The position of Mr Singh is that this was an adequately reasoned decision where the judge has taken an approach which is consistent with *BA*. He noted that the judge had taken into consideration the appellant's name, noting that it was in fact a Shia name.
8. The appellant's case at its highest is that he is a westernised Sunni Muslim with a distinctive Sunni surname that links him to Saddam Hussein's hometown who is at risk of kidnapping and being stopped by Shia insurgents at checkpoints as well as from the general absence of security and general danger in Baghdad.
9. The difficulty for the appellant is that the recent country guidance case of *BA* taken together with the evidence that was before the First-tier Tribunal does not support a conclusion that he would face a real risk of serious harm on return to Iraq.
10. In *BA* it was made clear that Sunni identity alone is not sufficient to give rise to a real risk of serious harm (paragraph 107 (v)). *BA* also found that the risk to a westernised returnee of kidnapping is not sufficient to found a protection claim (paragraph 107(iv)). In *BA* it was acknowledged that the longer a person has been outside Iraq the greater the risk could be. However, the appellant only left Iraq in 2013.
11. The appellant's claim to face a further or distinct risk because of his surname is not supported by evidence. The burden of proof is on the appellant and there was no evidence before the First-tier Tribunal (or me) to show an additional or heightened risk because of his surname. In fact, the only evidence about the appellant's name concerns his first name which, according to a report of the Finnish Immigration Service which is cited at paragraph 90 of *BA*, is a common Shia name.
12. Accordingly, I am satisfied that the decision of the First-tier Tribunal was consistent with *BA* and that the judge has reached a decision that was open to him based on the evidence.

Notice of Decision

The appeal is dismissed.

The decision of the First-tier Tribunal does not contain a material error of law and stands.

Signed

A handwritten signature in black ink, appearing to be 'S.H.', followed by a long horizontal line extending to the right.

Deputy Upper Tribunal Judge Sheridan

Dated: 10 November 2017