



**Upper Tribunal
(Immigration and Asylum Chamber)
PA/11983/2017**

Appeal Number:

THE IMMIGRATION ACTS

**Heard at Bradford
On 11th December 2018**

**Decision & Reasons Promulgated
On 20th December 2018**

Before

UPPER TRIBUNAL JUDGE REEDS

Between

KH

(ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Miss Khan, Counsel instructed on behalf of the Appellant
For the Respondent: Mr McVeety, Senior Presenting Officer

DECISION AND REASONS

1. The Appellant, with permission, appeals against the decision of the First-tier Tribunal, who, in a determination promulgated on the 8th June 2018, dismissed his claim for protection.
2. The appellants claim is set out in the determination of the FtTJ and in the summary set out in the decision letter dated 4 November 2017. The appellant first claimed that when he was about two or three his father had some problems with close relatives over some land. The appellant did not know who was in control of the land now and he had never seen or had any contact with them. He gave no reasonable explanation in his interview

as to how they would now be able to find the appellant. It was observed in the refusal letter that this “family feud” was not mentioned during the screening interview. At paragraphs 9 - 11 the judge considered this claim but found that his account of the family feud was almost “non-existent”; all he could tell the interviewer was that it concerned land and it arose when he was two or three years of age which is 30 years ago. He had never had contact with the feuding parties on either side. Given the vagueness and lack of information in his witness statement or his oral evidence, the judge rejected any fear based on that family feud.

3. The second and core issue of his claim was that he was in fear of two individuals of his wife’s family; her uncle SAA and her brother-in-law HS. His account was that he would be targeted throughout Iraq because of his out of tribe marriage that went against his wife’s family wishes and that because he sold alcohol for a living. His claim was that his family’s relatives were powerful in government in Iraq.
4. The claim was refused by the Secretary of State in a decision letter of 4 November 2017 although it is right to record that the respondent accepted his nationality, ethnicity and that he was a married man.
5. In a decision promulgated on 8th June 2018 the FtTJ made adverse credibility findings in relation to the appellant’s account and his appeal was dismissed.
6. The judge set out his findings of fact and as to credibility at paragraphs 9-26. I will make reference to those findings of fact in my analysis of the grounds relied upon by Miss Khan, Counsel behalf of the appellant.
7. The Appellant sought permission to appeal that decision and permission was granted by FtTJ Neville on the 13th July 2018.
8. Dealing with the first ground, it challenges the judges determination at paragraph 26 and cites, only partially, that paragraph as follows:-

“There was no evidence that either of these men were in government or had power and influence of any meaningful description anywhere in Iraq and certainly no evidence that they had power and influence everywhere in Iraq.”
9. The grounds seek to assert that the judge made that finding in error as it was contrary to the expert report. Miss Khan, in her oral submissions, stated that the judge had placed weight on the expert’s report when making earlier findings and thus the judge should have placed weight on his report at paragraphs 76 and 77 where he found that SAS was a prominent preacher in Iraq and at (77) that there were images of him with different military figures. It is considered that he would have power and influence.
10. However the grounds fail to take into account the two men that the judge was referring to and also to the first part of paragraph 26, which is the concluding paragraph and the numerous findings of fact set out in the

preceding paragraphs from paragraph 9 onwards that directly relate to the appellant's evidence and that of his wife.

11. The judge sets out a number of adverse credibility findings not only based on the appellant's inconsistent evidence relating to the profile of the family members he claimed to fear but also on the basis that the appellant's evidence was wholly contrary to the expert evidence produced on his behalf in important respects.
12. The judge carefully analysed the appellant's account and it is important to remember that the basis and the core of his factual claim related to the appellant's wife's tribal affiliation. The judge considered the appellant's claim concerning the profile of his wife's uncle who he claimed was head of the tribe (see paragraph 12) and set out the appellant's evidence from interview that he had met this man once but he was influential over many tribes. As to the profile of the other person he had identified as being in fear of, HS, he had confirmed in the interview that there were only two people from the family members whom he was in fear of (see question 83). The judge set out his evidence in interview that the second person HS worked for the government and had bodyguards. In interview he was not able to give any further evidence of their profile or prominence. The judge then turned to the witness statement which had been filed significantly after the interview. The appellant in that statement described his wife's uncle and brother-in-law as powerful people due to their tribal and political connections.
13. The judge set out at paragraph 13 that the appellant could give little or no further information about HS. As to his wife's uncle, the judge set out the appellant account that his wife told him that he was the head of the sub tribe Al-Rabia which was part of the Qureshi tribe. The judge then records the inconsistent evidence by the appellant by stating that his brother-in-law's father was prominent in the government but HS was not. This is contrary to what he had stated previously and set out in his substantive interview. The judge went on to set out the evidence relating to SAA at paragraph 14 and said that his father belonged to the national reconciliation committee in Iraq and that both SAA (wife's uncle) and HS travelled with an armed guard. He then gave further information about the position of HS stating that he works for his father and the reason why he said HS was prominent in government because when he came to beat the appellant up he was with uniformed bodyguards.
14. At paragraph 15 the judge set out the oral evidence given by the appellant concerning his wife's uncle and gave greater detail about him being head of the tribe and having "lots of men and influence in a lot of places, influence throughout Iraq." This however is contrary to the expert evidence at section 5.3 paragraph 6.8 where Dr Fatah stated that the "majority of persons belonging to the Quraishi tribe in Iraq are considered to be working class and have no influence in politics. The Qureshi tribe in Iraq are not highly regarded." When this was put to the appellant he said that the expert was wrong but offered no evidence in support beyond his own oral account.

15. The judge referred to the evidence at paragraph 16 concerning the profile of the family members he claimed to fear and when asked whether he feared HS (the man he originally in an interview said he feared) and HS's father he said "I fear H" and again said he did not know what he did in government it was then recorded that the appellant's evidence was that HS's role in government was to guard HS's father.
16. The judge then went on to state his conclusions having made an analysis of that evidence as set out above. He found the appellant's evidence to be "vague, inconsistent and developed" (see paragraph [17]). The judge then proceeded to set out the reasons why he had found that to be the case and by reference to the evidence given not only by the appellant but also his wife and in the context of the expert evidence.
17. The judge identified that the appellant had said his wife's uncle was head of the Qureshi tribe but had then in his witness statement said that he was head of the sub tribe Al-Rabia. He then backtracked and stated that it was a mistake. The judge rejected his explanation for that inconsistent evidence because the appellant's wife's witness statement had also repeated the same evidence.
18. The judge also found the appellant's claim was inconsistent when stating that his wife's brother-in-law's father was prominent in government but his brother-in-law HS (whom he'd originally claimed to be in fear of in an interview) was not. As the judge recorded, he then changed his evidence again by claiming HS was prominent in the government (see paragraph 16).
19. The judge considered his account developed in his witness statement and was now claiming that SAA's father belonged to the national reconciliation committee of Iraq without submitting "a shred of credible evidence that this was true, and without explaining what his role in this committee all how it made even more powerful than originally claimed." The judge also found that the appellant had failed to explain why he omitted to mention this in 2016 when he gave his asylum interview or between then and when he made his witness statement. The judge also observed that the claim was added to when the appellant stated at the hearing that this man was not only a senior member of the government but held two posts; one being in charge of the national interest office but he didn't know the other post. The judge found that it failed to explain why this information had changed, in the eight day period between making the statement and giving oral evidence. The judge also found that he made a late change in his account stating that HS was in charge of his father's bodyguards.
20. It can therefore be seen that the judge set out the appellant's inconsistent evidence concerning the core of his claim and who it was he actually feared and why.
21. The judge then considered the appellant's wife's evidence at [19] and gave reasons which are open to him on the evidence as to why he found her evidence to be inconsistent with that of the appellant. He found her

evidence that her husband did not know much about the family members because “my husband does not pay attention to such detail and as it is not important to him” as bizarre and contrary to the core of the claim of having fled Iraq because of fear of the family members. The judge found that she failed to explain how the little information her husband did know changed during the course of the hearing. The judge also found her evidence was inconsistent with the appellant’s evidence by stating “H is prominent in the government because of his father. He works as part of his father’s personal guard” in circumstances where the appellant denied in one of his accounts and the man was in government and in another claim that he was in charge of his father’s bodyguards.”

22. Importantly he found her account as to the position and description of the tribe to be inconsistent and rejected her explanation that she had made a mistake in the witness statement (see paragraph 20). The judge found she was inconsistent even in the reasons as to why she had made such an important error stating “whichever of these explanations would were true, if either was true, I find that it was a fundamental error that I would not expect someone genuinely referring to their families tribe, a crucial part of the culture.”
23. At paragraph 23 the judge set out the expert evidence which contradicted the appellant’s evidence and that of his wife and in particular identified that the expert had made no reference to the family feud. Secondly, the expert made no mention of the alleged prominent place in government of either of the two men the appellant claimed to fear in Iraq (the original two men identified) but did make reference to the Qureshi tribe which was considered to be working class and is having no influence in politics and was not highly regarded. The judge found that that was inconsistent with the appellant and his wife’s claim.
24. The expert evidence also could find no trace of SAA’s father is a member of the national reconciliation committee (as claimed by the appellant) nor could he find any trace of HS. He also confirmed the appellant’s claim that the entire tribe would seek vengeance on him was inaccurate and he repeated that the Qureshi tribe was not highly regarded (see 86 and 127). The expert also confirmed that the Rabia tribe was the larger tribe and that the Qureshi tribe is the sub tribe (paragraph 70).
25. It was therefore open to the judge to find that the appellant’s evidence was fundamentally inconsistent regarding the core of his claim which related to tribal affiliations.
26. It is right that the expert report identified that SASA (HS’s alleged father) was a prominent preacher in Iraq and refers to numerous videos of him online and that it was considered that he would have power and influence. However the expert was not able to determine the name of SASA’s son and that he was also not named as a member of the committee.
27. However the judge found, having analysed the evidence in depth that neither the appellant nor his wife had mentioned the profile of this man as

a preacher. The inference from that finding is that if they had they any real knowledge or fear of this man they would have identified his correct profile and that was for those reasons that the judge set out his final conclusions at paragraph 26 “I’m satisfied that the appellant’s total account was so riddled with discrepancies and contradictions that are the reasons that I’ve given I do not believe he was a witness of truth in his claim...”.

28. The grounds only make reference to part of paragraph 26 and ignore the earlier findings. The judge was clearly stating that there was no evidence to support the appellant’s claim that the two men (wife’s uncle or brother-in-law) were in government or had power and influence. Whilst the grounds referred to the profile of the man is said to be HS’s father, as a prominent preacher, the grounds failed to take into account that neither the appellant or his wife had identified that he was a preacher and that that undermined their account.
29. Consequently the judge gave adequate reasons for rejecting the appellant’s account and did so in accordance with the expert evidence.
30. Dealing with the ground 2, it refers to paragraph 24 and that the judge had confused the names of two of the people and therefore it demonstrated a lack of anxious scrutiny throughout the determination. That is evidently not the case as the grounds concede, that this is a judge who was aware of the various individuals and who they were when the determination is read as a whole. Whilst the judge referred to the wrong name of the man who the appellant said was a member of the national reconciliation committee the judge had properly identified him previously as can be seen at paragraph 18. Any error was not material in any event because the person identified by the appellant was said to be a member of that committee could not be traced by the expert who had their name.
31. The last ground relies on the evidence of the video clip and two photographs. It was open to the judge to reach the conclusion that little or no weight should be given to the video clip. Firstly, he found the video clip was shown on the representative’s laptop and it had no English-language commentary or transcript. Secondly, he found it to showed a number of people milling about, and thirdly what the appellant had said about this clip in his evidence was significantly different to what it claimed in his witness statement.
32. As to the two photographs, the judge stated that their submission in evidence had been unexplained (paragraph 25). However the grounds relied upon by Miss Khan are that the photographs had in fact been explained and by way of support Counsel’s note is cited in the grounds. However those photographs do not assist because whilst one of the individuals may be the appellant’s wife, it is not identified who the other people are in the photographs or in what context the photograph was taken. The photos were also not shown to the expert.

33. I am therefore satisfied that those grounds do not demonstrate any error of law in the judge's determination. Furthermore as Mr McVeety submits, even if there was an error (and as I have set out I do not find that there is any error) the grounds do not seek to challenge the judge's assessment of internal relocation alternatives as set out at paragraph 31 - 36 and therefore those findings would still remain and would demonstrate that the claim made could not succeed.

Decision:

The decision of the First-tier Tribunal did not involve the making of an error on a point of law and the appeal is dismissed; the decision of the First-tier Tribunal shall stand.

Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008

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. This direction applies both to the Appellant and to the Respondent. Failure to comply with this direction could lead to contempt of court proceedings.

Signed

SM Reeds

Date: 12th December 2018

Upper Tribunal Judge Reeds