



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

Appeal Number: PA/09875/2018

THE IMMIGRATION ACTS

Heard at Bradford

On 11 March 2019

**Decision & Reasons
Promulgated
On 15 March 2019**

Before

UPPER TRIBUNAL JUDGE LANE

Between

**LIMO [A]
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms Bashow, instructed Parker Rhodes Hickmotts
For the Respondent: Mr Diwnycz, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant was born on 1 January 1984 and is a female citizen of Iraq. By a decision dated 15 July 2018, the Secretary of State refused the appellant's claim for international protection. The appellant appealed to the First-tier Tribunal which, in a decision promulgated on 19 October 2018, dismissed the appeals. The appellant now appeals, with permission, to the Upper Tribunal.
2. The appellant's claim for protection arises from a fear of her father, a major in the Peshmerga. The appellant claims to have had an extra-marital

affair and, after DNA tests indicated that the appellant's husband was not the father of her child, her father had tortured her and tried to kill her.

3. The judge rejected the credibility of the appellant's claim. At [21], he addressed the DNA evidence adduced in support of her claim by the appellant. He recorded that, 'we went through the DNA report and this did not identify any test being taken by the appellant's husband.' The judge records what he regarded as confusion as to whether the appellant's husband had given the DNA sample in London or in Beirut.
4. The judge's analysis is problematic. The sample declaration forms for the husband, the appellant and the child appear in the respondent's bundle at A1-3. The husband's form appears to have been endorsed by an official of Her Majesty's Passport Office in London. The report produced by Cellmark gives the dates of the samples which match those on the declaration forms. The report acknowledges that the claimed relationship between the husband and the child has not been established. Whilst the appellant in her oral evidence may have provided contradictory testimony (there seems to have been reference by her to a second test undertaken by the husband in Beirut) the fact remains that the judge, despite recording in some detail the appellant's oral evidence, has made no firm finding as to the weight properly attaching to the Cellmark report. Later in the decision [28] the judge finds that the appellant's version of events amounts to nothing more than a 'series of contradictory and incredible accounts.' It is not clear where the results of the DNA tests sit in that analysis. If the judge believed that the Cellmark report is a forgery or if the sample tested purportedly from the appellant's husband was not his, then he should have said so. As it is, his treatment of the report remains incomplete and unsatisfactory. As Ms Bashow, who appeared for the appellant before both tribunals submitted the judge was not given adequate reasons for rejecting the husband's sample declaration form which bears the signature of the United Kingdom government official.
5. I told the representatives at the hearing that I intended to set aside the decision. I also told Ms Bashow that I did not intend to make any findings in respect of the second ground of appeal. Given that I intended to set aside the decision in any event, nothing would be gained by lengthy comparison of the various records of the First-tier Tribunal proceedings.
6. I set aside the decision. None of the findings of fact shall stand. It will be for the next tribunal to hear the evidence afresh and make findings; my decision is not intended to restrict the scope of those findings as to any issue in the appeal, including the DNA report.

Notice of Decision

7. This decision of the first-tier tribunal was promulgated on 19 October 2018 is set aside. None of the findings of fact shall stand. The appeal is returned to the first-tier tribunal (not Judge Tobin) for the tribunal to remake the decision.

Signed
Upper Tribunal Judge Lane

Date 13 March 2019