



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

**Appeal Number: UI-2022-001643  
PA/51301/2020; IA/00773/2020**

**THE IMMIGRATION ACTS**

**Heard at Birmingham CJC  
On 11 November 2022**

**Decision & Reasons Promulgated  
On 20 November 2022**

**Before**

**UPPER TRIBUNAL JUDGE HANSON**

**Between**

**SA**

(Anonymity direction made)

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: No appearance.

For the Respondent: Mr Bates, a Senior Home Office Presenting Officer.

**DECISION AND REASONS**

**Background**

1. The appellant appeals with permission a decision of First-tier Tribunal Judge Dixon ('the Judge') promulgated following a hearing at Birmingham on 1 February 2021, in which the Judge dismissed the appellant's appeal against the refusal of his application for international protection or leave to remain in the United Kingdom on any other basis.

2. Notice of the date, venue, and time of the hearing of the appellant's appeal against the decision of the Judge was sent to the last notified address held by the Upper Tribunal. The notice has not been returned, there was no application for an adjournment, and no explanation for the appellant's absence. There was nothing on the facts of the appeal that would explain the failure to engage with litigation relating to his own application and I consider it appropriate having considered the overriding objectives and the principle of fairness to proceed to hear the appeal in the appellant's absence, as there is nothing that suggests any other course of action is appropriate.

### **Error of law**

3. The appellant was 19 years of age when his appeal was heard before the Judge, so is not a child. It is not disputed he is a citizen of Iraq of Kurdish ethnicity or that he originates from Tuz Khurmatu.
4. Having had the benefit of considering the written and oral evidence the Judge sets out findings of fact from [34] of the decision under challenge.
5. The Judge first considers the credibility of the appellant's claim recognising within the determination that the respondent had accepted the appellant's account was consistent with the objective evidence and the fact the appellant was only a minor at the time of the events he described, according to the appellant the benefit of the doubt and applying it commensurately with his age at the time [36].
6. Notwithstanding adopting the cautious approach the Judge did, it was still concluded that on the basis of the evidence as a whole the Judge was not satisfied that the appellant had given a truthful account of matters. The Judge gives six separate reasons why that conclusion was arrived at, see [37 - 42], before concluding it was not accepted the appellant was abandoned and taken to a safe house and confined in the same as he claims and not accepted that the appellant's father is not available in Iraq to assist him.
7. As the credibility of the core account was rejected the Judge concludes that the appellant had not established any risk from the PMF in Iraq, that his father's role within the Peshmerga was at a low level, and that the appellant was of no interest to the PMF. In the alternative the Judge found it would not be unduly harsh for the appellant to relocate to the IKR and there was no reason to suggest the PMF would seek to tracking down if he left his home area and that his father will be available to assist him [44].
8. The Judge moves on to consider re-documentation at [46 - 48], concluding that as the appellant's claim not to have contact with his father had been shown to lack credibility his father could assist him in obtaining necessary documentation, and on any view he would have the necessary documents to enable him to travel within Iraq.
9. The application for permission to appeal assert, inter alia, the Judge failed to apply relevant country guidance in SMO in light of the fact he cannot get a CSID from the Iraqi embassy in London. The claim in the grounds the Judge "placed too much emphasis" on the arguments put

to him by the Presenting Officer on the day, and in the refusal letter, is disagreement with the weight the Judge gave that aspect of the evidence, when that was a matter for the Judge. It is not made out the Judge did not consider the case advanced on the appellant's behalf properly, and just because the appellant may not like the decision does not mean the Judge has erred in the process by which the decision has been reached.

- 10.** The grounds refer to the position of an individual such as the appellant who has no parental links, but the Judge finds the appellant's account is not true and that he does have contact with his father in Iraq.
- 11.** The grounds contain disagreement with the Judge's findings; referring to the fact the appellant cannot be issued with a CSID from Iraq either and questioning how he could travel from Baghdad back to his home area.
- 12.** Permission to appeal was granted by another judge of the First-tier Tribunal the operative about the grant being in the following terms:
  2. There is an arguable error of law. It is apparent from the respondent's decision dated 24 July 2020 that the appellant's account was largely accepted and unchallenged. For example, at [52], the respondent's decision states: *'Taking into account all of the above, it is considered that you have provided a detailed, externally consistent and internally consistent account of PMF presence in Tuz Khurmatu. Therefore, it is accepted that the PMF came to Tuz Khurmatu.'* In his decision, Judge Dixon made as diverse findings in respect of the appellant's credibility, and not withdrawn. This amounts to an error of law.
- 13.** Mr Bates on behalf of the Secretary of State's opposed the appeal.
- 14.** If one looks at the reasons for refusal letter the alleged concession referred to in the grant of permission to appeal is limited, in that the claim the appellant was from Tuz Khurmatu and his account of PMF's presence in his hometown was all that was conceded. The Judge did not make a finding which countered this starting point. The grounds fail to adequately identify any concession made by the Secretary of State in relation to the matter upon which the Judge made adverse findings.
- 15.** In relation to the whereabouts of the appellant's CSID, in his asylum interview he claimed this document was with his father. There was no evidence before the Judge that the appellant's father did not have the same.
- 16.** The appellant's claim that he had lost contact with his father was rejected by the Judge, a finding which is supported by adequate reasons. Disagreement with that conclusion or suggestions for alternative findings that might have been made does not establish material legal error in the findings that were made.
- 17.** The Secretary of State has changed her policy in that enforced returns are now to any airport within Baghdad including the IKR.
- 18.** The Judge's primary finding is that there is no risk to the appellant in his home area as his claimed threat from the PMF was not found to be credible. The appellant is likely to be returned to Sulaymaniyah or Erbil in the IKR. It is not made out he will not be able to obtain a *laissez*

passer in the UK and as a Kurd he will be able to pass through the airport without experiencing any difficulties. It is not made out he will not be able to make necessary arrangements with his father to meet him at the airport and hand his CSID to him. With that the appellant will be able to travel through any roadblocks he may encounter to enable him to return to his home area of Tuz Khurmatu and to his local CSA office to obtain an INID, if he does not already have the same. The issue therefore of whether a CSID can be obtained in the UK or within Iraq, which I accepted cannot any longer, does not arise.

- 19.** Having considered the matter generally in the absence of appellant and/or his representative, despite this being his application, I have come to the conclusion that the grounds do not establish arguable legal error material to the decision to dismiss the appeal sufficient to warrant the Upper Tribunal interfering any further in this matter.

**Decision**

- 20. There is no material error of law in the Immigration Judge’s decision. The determination shall stand.**

Anonymity.

- 21.** The First-tier Tribunal made an order pursuant to rule 45(4)(i) of the Asylum and Immigration Tribunal (Procedure) Rules 2005.

I make such order pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008. 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.

Signed.....  
Upper Tribunal Judge Hanson

Dated 11 October 2022