



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2021-001911

First-tier Tribunal No: PA/50083/2020

THE IMMIGRATION ACTS

Decision & Reasons Issued:
On 24 May 2023

Before

UPPER TRIBUNAL JUDGE HANSON

Between

RB
(ANONYMITY ORDER MADE)

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Ahmed, instructed by Primus Solicitors.
For the Respondent: Mr Tan, a Senior Home Office Presenting Officer.

Heard at Manchester Civil Justice Centre on 21 April 2023

Order Regarding Anonymity

Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, the appellant is granted anonymity. 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.

DECISION AND REASONS

1. The appellant appeals with permission a decision of First-tier Tribunal Judge Austin ('The Judge') promulgated following a hearing at Manchester on 7 January 2020, in which the Judge dismissed the appellant's appeal against the refusal of his application for international protection and/or leave to remain in the United Kingdom on any other basis.
2. Permission to appeal to the Upper Tribunal was granted by another judge of the First-tier Tribunal, the operative part of the grant being in the following terms:
 3. The grounds have been drafted by the appellant without any apparent assistance, and it would be inappropriate to interpret them in an overly restrictive way. They first assert that the Judge was wrong to find that the appellant had been inconsistent as to the whereabouts of his ID documents, as the respondent had concluded in the refusal decision. The appellant had responded in his witness statement at para 21, but it is arguable that the Judge neglected to consider that explanation. Such an error, if established, may be material. The date on which the appellant claims to have been told by his mother that his ID cards were destroyed would appear to fall after the screening interview but prior to the substantive interview. Whether there were further inconsistencies in oral evidence, or whether he means those already asserted, arguably cannot be discerned from the Judge's reasons. As previously noted, there is no Record of Proceedings on file.
 4. Likewise, Ground Two is arguable in its assertion that the Judge failed to grapple with the appellant's claimed risk being from Islamists rather than the Kurdish establishment. Unless the Judge wrongly compartmentalised his credibility assessment in that respect, it is difficult to understand his analysis at [37].
 5. The Judge's findings on whether the appellant is genuinely a well-known singer are challenged by Ground Three in very broad terms. While the Judge was entitled to place reliance on the evidence recorded at [38] concerning a Facebook video, it is arguable that at least a cursory examination was required of the numerous other pieces of evidence produced, such as the YouTube videos discussed and hyperlinked in the refusal decision. They are not mentioned.
 6. I am mindful that the assessment of evidence was for the Judge, and permission should only be granted if there is an arguable material error of law. Bearing in mind the anxious scrutiny of protection claims required by the relevant authorities, I consider that the above matters taken together are sufficient to cross the relevant threshold such as to merit full consideration by the Upper Tribunal.

Discussion and analysis

3. Mr Ahmed in his submissions referred to the fact the First-tier Tribunal hearing had occurred on 7 January 2020, yet the decision had not been promulgated until 9 June 2021, asserting that the delay raises questions about Judges understanding and consideration of the evidence which impacted on the decision.
4. Mr Ahmed also submitted that the Judge had not properly dealt with all issues but only undertaken a cursory examination of the evidence with no requisite degree of anxious scrutiny.
5. Mr Tan on behalf of the Secretary of State asserted there were clear inconsistencies in the evidence in relation to the ID documents between the appellant's witness statement, the screening interview, and the asylum interview, and that the Judge properly considered the issue of the claimed threat.
6. Mr Tan submitted that the Judge's findings were made in light of the examination of the evidence as a whole and are sustainable.
7. Mr Ahmed in reply repeated his submissions regard in the case and the issues in relation to the analysis as per the grounds seeking permission to appeal.
8. Dealing with the issues in the order raised, the first was that of delay.
9. The date appearing in the header of the determination as the date of hearing, 7 January 2020, appears to be a typographical error as the notice of hearing sent to the parties and their representatives clearly shows that the appeal was listed for

hearing on 7 January 2021 at IAC Manchester. The decision itself, containing the Judge's signature, is dated 1 February 2021 indicating little or no delay, but also with an indication that it had been re-dated to 11 June 2021 for promulgation as it appeared that the version sent in February 2021 had not been properly promulgated and was listed as pending. It is the redated version that appears to have been served.

10. I do not find it made out that there has been unreasonable delay in promulgating the decision by reference to the date of the hearing, especially as the Judge's assessment of the evidence was clearly that contained in the document dated 1 February 2021. It has not been established that the period of time between the hearing and promulgation has resulted in any misunderstanding or failure to appreciate the facts, evidence, or applicable legal principles. The evidence in fact supports a finding that any delay that occurred between the hearing and 1 February 2021 had no impact upon the Judge's assessment.
11. The Judge sets out findings of fact from [28] of the decision under challenge. The Judge's main finding is that the appellant is not a credible witness for the reasons set out in the following paragraphs. The Judge specifically finds the appellant had shown a lack of consistency in his factual claims, provided differing and contradictory accounts in support of those claims, which undermined his credibility.
12. The Judge specifically finds the principal matter which undermines the credibility is the contradictory accounts of the whereabouts of the appellant's identity documents and passport. The Judge gives adequate reasons for why that is so. Mr Tan's submission regarding the clear inconsistencies is made out.
13. The grant of permission to appeal refers to the Judge failing to "grapple with the appellant's claim to be at risk from Islamists rather than the Kurdish establishment" but the appellant is from the IKR where there is insufficient evidence of threat from Islamists. The appellant's claim was, in any event, rejected by the Judge as lacking credibility including those aspects which he asserted would give rise to a real risk from this group. It was not made out, even if the appellant did face such a risk, that there would not be a sufficiency of protection available to him within the IKR. The appellant's home area is Rawdose near Erbil.
14. The assertion the Judge undertook no more than a cursory examination of the evidence is without merit. The Judge was not required to set out in great detail all the evidence that had been provided or to make findings upon the same. It is not made out the Judge failed to consider the evidence with the required degree of anxious scrutiny. It is clear the Judge's findings are adequately reasoned and that a reader of the determination can understand not only what the Judge found, but also why. The fact the appellant may disagree with the Judge's conclusions does not mean the evidence was not properly considered.
15. Paragraph [5] of the grant of permission asserting the Judge failed to undertake the required degree of anxious scrutiny because certain parts of the evidence are not mentioned does not even establish an arguable legal error.
16. The appellant's local CSA office is still issuing the CSID documents. The Secretary of State will return him directly to Erbil. As an Iraqi Kurd he will be able to secure a laissez passer from the Embassy in the UK which he can use to fly directly to that airport. There is nothing in the evidence to show the appellant will not be able to pass through the airport safely. The Judge finds that the appellant has his passport and Iraqi ID documents or has access to them through his family. If they are not in his personal possession it was not made out the family cannot send them to him or, alternatively, meet at the airport and hand them to him.

17. Having considered the submissions, grounds seeking permission to appeal, grant of permission to appeal, evidence, and the determination under challenge with the required degree of anxious scrutiny, I find the appellant has failed to establish legal error material to the decision to dismiss the appeal sufficient to warrant the Upper Tribunal interfering any further in this matter.

Notice of Decision

18. No legal error material to the decision to dismiss the appeal is made out. The determination shall stand.

C J Hanson
Judge of the Upper Tribunal
Immigration and Asylum Chamber
7 April 2023