



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2024-004551

First-tier Tribunal Nos: PA/62114/2023
LP/04080/2024

THE IMMIGRATION ACTS

Decision & Reasons Issued:
On 9 January 2025

Before

UPPER TRIBUNAL JUDGE KHAN
DEPUTY UPPER TRIBUNAL JUDGE ANZANI

Between

AS
(ANONYMITY ORDER MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Litigant in person,
supported by an Interpreter Mr Fazil Kawani (Kurdish Sorani)
For the Respondent: Mr E Tufan, Senior Home Office Presenting Officer

Heard at Field House on 16 December 2024

Order Regarding Anonymity

Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, [the appellant] (and/or any member of his family, expert, witness or other person the Tribunal considers should not be identified) 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 (and/or other person). Failure to comply with this order could amount to a contempt of court.

DECISION AND REASONS

Introduction

1. This is an oral decision given in the appeal brought by the appellant, a citizen of Iraq. He arrived in the UK on 15 April 2022 and claimed asylum on 16 April 2022. His application was refused by the respondent on 15 November 2023. The appellant appealed to the First-tier Tribunal against the respondent's refusal to accept his protection claim. Judge Suffield-Thompson of the First-Tier Tribunal dismissed the appeal on 30 June 2024. It is this decision which is the subject of the appeal hearing today.
2. The appellant claims he is entitled to asylum, in the alternative a grant of humanitarian protection, as he does not have his CSID card in the UK which is a document that he needs to safely return to Iraq. He claims he is at risk as a victim of an honour crime as he previously had a relationship with an unmarried woman for some years and he says this places him at risk if he were to return because her family wish to kill him.
3. The appellant also claims to be at risk in Europe from an ex-friend and business colleague, named Mohammad, who he says is threatening to kill him.

Decision of the First-tier Tribunal

4. The First-tier Tribunal heard evidence from the appellant via remote video platform. The appellant was supported by a Tribunal interpreter. The key findings of the judge are to be found at [20] to [63] of the determination.
5. In dismissing the appeal, the judge concluded the appellant lacked credibility. At [25] the judge stated, *'The Appellant gave oral evidence and from the outset I did not find him to be a credible witness'*. In relation to the ex-friend, Mohammed, with whom the appellant said he had gone into business and wanted to kill him, the judge found there was no evidence of any sort to show that the man existed [45]. There was no paperwork, no texts or message or email from the man. The judge noted the appellant had stated that he had no fear of the man in Iraq, only in Europe.
6. In relation to the appellant's claim to have had a relationship with an unmarried woman who came from a 'high family' with connections to the KDP and the PUK, the judge found at [35] that these assertions lacked credibility. In this regard, the appellant could not identify the family members, their names or the positions that they held in the KDP or the PUK despite the appellant having been in a relationship with the woman between 2009 and 2013, which had become intimate.
7. The judge also found the appellant's assertion that after her family refused for him to marry the woman that he nonetheless continued the relationship by phone and by message to lack credibility. This was because she was said to have come from a strict conservative family and as such would have been under scrutiny by her family; the messages or/and the phone calls would have been found out, which in turn, would have placed him and her at risk. The judge found that it was simply not plausible that their relationship would have continued in those circumstances.
8. In relation to the CSID card, the appellant's evidence was that he left Iraq in a hurry and only took his passport leaving his CSID card at home. He told the First-

Tier Tribunal that his father would send it to him, if asked. The judge found the appellant's evidence lacked credibility as he would very well know that he needed his CSID card to pass through any checkpoints on his way out of Iraq [52]. The judge also found that since the appellant had an image or a copy of the CSID card on his mobile phone, that suggested he more likely than not had his CSID card with him in the UK and had not left it at home [53].

9. Finally, the judge found the appellant had lived in Iraq all of his life and was accustomed to the lifestyle and culture. He accepted that he had diabetes but would be able to receive treatment on return.
10. It is against this background that the appellant appeals to the Upper Tribunal.

Grounds of Appeal

11. The grounds of appeal are two-fold: (1) that the judge incorrectly read the evidence and wrongly believed [58] that the appellant was the one in need of medical care rather than his sister; (2) that the judge incorrectly assumed that because the appellant had a copy of his CSID card on his phone that he was in possession of it in the United Kingdom [53].
12. On 8 October 2024, Upper Tribunal Judge Neville permitted both grounds of appeal on the basis that they were arguable.

Rule 24

13. The respondent filed a Rule 24 response opposing the appeal and made the following points: (i) the appellant does not challenge the judge's credibility findings on the protection claim or paragraph 276ADE or Article 8 ECHR; (ii) the judge was entitled to reach the view that he did not accept that the appellant had left his CSID card at home, but even if he was mistaken in taking this approach, the appellant said in evidence that his father would send it, if asked [31]; (iii) in accordance with the CPINs, the appellant could be returned to Sulaymaniyah where he could be re-documented after having been vouched for at the airport.

Discussion and Analysis

14. We have not set out the submissions of either party. However, our analysis of the case reflects the submissions they made. We wish to express our gratitude for the assistance provided by the interpreter and Mr Tufan to the appellant to support his full participation at the hearing.
15. In order to further assist the appellant, we asked Mr Tufan to first present his submissions in relation to the grounds of appeal as this would assist the appellant to better understand the respondent's position. We are also grateful to the appellant for his agreement to reverse the usual order of the proceedings.
16. Turning to the grounds of appeal, the appellant relies on paragraph [58] in respect of ground one where he states that the judge misinterpreted the evidence when he stated "*I accept that he has diabetes, but he had this in Iraq and he was well and able to receive the treatment that he needed there and he can do so on return*". The appellant told us that it was his sister's son who has diabetes and not him. He said that he supports his sister with her son's treatment

and that she puts pressure on him to stay in the UK to help her looking after the child.

17. Mr Tufan for the respondent took us to the Rule 24 response. He stated that the appeal was opposed in its entirety but in any event as to the ground relating to the mistake of fact, even if an error had been made, it was not material to the judge's decision-making.
18. We have carefully considered the submissions regarding ground one and agree with Mr Tufan. It would appear that there is a factual error but, in any event, it was not material to the judge's decision-making and ultimate dismissal of the appeal. The decision of VOM (Error of law - when appealable) Nigeria [2016] UKUT at [15] makes it clear that for the Upper Tribunal to set aside a decision of the First-tier Tribunal it is essential for the error of law to be material. In this regard, an error of law is material if the judge might have come to a different conclusion had he not made the factual error. We conclude that the Judge would have come to the same outcome and therefore the factual error is immaterial. Ground one is therefore dismissed.
19. Turning to ground two, the appellant asserts the judge was wrong to find [53] that because he had a copy of his CSID card on his phone it meant that he had it with him in the UK.
20. The appellant told us that he had spoken to his father some 10 months earlier about sending him his CSID card and was told by his father that he could not find it. We asked if this was correct, why did he tell the First-tier Tribunal Judge in June 2024 that his father could send him the card, if asked [31].
21. The appellant said that in his recollection, the First-tier Tribunal hearing was held more than 10 months ago and was therefore well before he had spoken to his father. It was pointed out to the appellant that the First-tier Tribunal hearing was only a few months ago in late June 2024 and therefore he was mistaken. The appellant stated that in any event, he was not able to travel back to Iraq because his claim was about persecution.
22. Mr Tufan stated that as the appellant was from the Kurdish Region with a passport and also had an image of his CSID card, it was possible for him to fly directly from the UK to Erbil or Sulaymaniyah thereby avoiding having to travel through a Shi'ite area such as Baghdad. His family could then meet him and arrange for him to be registered under the new civilian regime relevant to ID cards. There was no barrier to his return to Iraq.
23. We have carefully considered the appellant's submissions which in our view amount to nothing more than mere disagreement with the judge's findings. The appellant has failed to identify any error of law in the judge's decision making. Ground two is therefore dismissed.
24. For these reasons, the appeal fails on both grounds. We find the appellant's appeal has not identified a basis to disturb the First-tier Judge's conclusions.

Notice of Decision

25. The decision of the First-tier Tribunal did not involve the making of a material error of law and therefore stands.

K.A.Khan

Judge of the Upper Tribunal
Immigration and Asylum Chamber

02 January

2025