



**Upper Tribunal
(Immigration and Asylum Chamber)
PA/02639/2018**

Appeal Number:

THE IMMIGRATION ACTS

**Heard at Bradford
On 1st April 2019**

**Decision & Reasons Promulgated
On 24th April 2019**

Before

DEPUTY UPPER TRIBUNAL JUDGE D E TAYLOR

Between

M M H

(ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms Marwaha of Counsel instructed by Bankfield Heath Solicitors

For the Respondent: Mr Diwnycz, Senior Home Office Presenting Officer

DECISION AND REASONS

1. This is the appellant's appeal against the decision of Judge O'Hanlon made following a hearing at Bradford on 3rd October 2018.

Background

2. The appellant is a citizen of Iraq born on 1st January 2000. He is a Sunni Muslim. At the hearing before the judge it was conceded that in October 2016 ISIS invaded Kirkuk and his mother, father and sisters were killed by them. The sole issue before the judge was whether it would be unreasonably harsh for the appellant to relocate to Baghdad, given that he has been out of the country for over two years.
3. The evidence before the judge was that the appellant has a CSID and he speaks Arabic. However, it was submitted to him that he was effectively a

child when he left Iraq, had been traumatised by the death of his parents and had no known family members in Baghdad to accommodate or assist him.

4. The judge referred to the relevant case law, in particular AA (Iraq) v SSHD [2017] EWCA Civ 944. At paragraph 37 he said that he was not prepared to accept the UNHCR Report of 12th April 2017 which suggested that Sunni Arabs originating from previously ISIS held areas were reported to be the subject of arbitrary arrest and detention on the basis of their perceived support for IS. Having considered all the relevant factors in the round, he did not find that it would be unreasonable for the appellant to return to Baghdad. He reached a similar conclusion in respect of the southern governorates.
5. The appellant sought permission to appeal on the grounds that the judge had materially erred in law in his consideration of the reasonableness of relocation, failing to make findings of fact on material issues, and failing to conduct a fact-sensitive analysis.
6. For the respondent, Mr Diwnycz accepted that the determination could not stand for the reasons set out in the grounds.

Consideration as to Whether there is a Material Error of Law

7. The judge erred in law in failing to take into account all relevant factors when concluding that it would be reasonable for the appellant to relocate. His decision is set aside and will have to be re-made.
8. Before the next hearing the appellant is directed to serve, seven days before the hearing, a witness statement which should cover all possible areas of support which he may be able to access in Baghdad or the southern governorates. He should also serve any medical reports upon which he intends to rely.
9. The respondent must, seven days before the hearing, serve all up-to-date evidence on the situation in Iraq, both on the Tribunal and the representatives.
10. The resumed hearing will be on the basis that the appellant's family were killed in 2016 in the circumstances as described by him.

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 or any member of their family. This direction applies both to the appellant and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.

Deborah Taylor

Signed

Date 19 April 2019

Deputy Upper Tribunal Judge Taylor