



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

Appeal Number: PA/00230/2019

THE IMMIGRATION ACTS

**Heard at Bradford
On 29 July 2019**

**Decision & Reasons Promulgated:
On 21 August 2019**

Before

UPPER TRIBUNAL JUDGE HEMINGWAY

Between

**H
(ANONYMITY DIRECTED)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr J Howard (Solicitor)
For the Respondent: Mrs R Pettersen (Senior Home Office Presenting Officer)

DECISION AND REASONS

1. This is the claimant's appeal to the Upper Tribunal, brought with the permission of a Judge of the First-tier Tribunal, from a decision of the First-tier Tribunal (the tribunal) which it made on 8 April 2019 following a hearing of 15 March 2019 and which it sent to the parties on 11 April 2019. The tribunal decided to dismiss the claimant's appeal against a decision of the Secretary of State made on 10 November 2018, refusing to grant him international protection.

2. The claimant was born on 14 April 1993 and is a national of Iraq of Kurdish ethnicity. He entered the United Kingdom on 14 May 2018 and made his claim for international protection very shortly afterwards. The account offered by the claimant and which is said to underpin his claim to be entitled to international protection may be summarised as follows: He is from Tuz Khurmattu in central Iraq where he lived with his family. He had been employed by a photocopying company for a period of some four years. In 2017, whilst he was working for that photocopying company at shop premises, he and his boss were detained by Shia militia and held for five days. They were accused of involvement in leafletting. It was said that the leaflets criticised the Iraqi government and the Shia militia. The claimant was released on condition that he observe what people were having printed or photocopied in the shop and report his observations back to the Shia militia. He says that they would then visit the shop every week to monitor that he was doing as promised. In March 2018 his boss asked him to open the shop out of hours and assist two customers. However, whilst printing some material for them he realised that what he was printing was again critical of the Shia militia. He refused to assist any further but was then threatened at gunpoint. So, under duress he carried on with the printing. Two days later his boss asked him to open the shop out of hours, once again, for the same people. He did so and whilst he was once again printing similar material, armed Shia militia burst into the shop. He escaped by using the back entrance. He then travelled to Kirkuk and stayed there for three nights until his brother-in-law helped him to depart Iraq with the assistance of an agent.

3. The Secretary of State did not believe the claimant's account. The tribunal did not do so either. It did, however, accept that he is from Tuz Khurmattu and that that town is located in an area where the level of indiscriminate violence is such as to engage Article 15c of the Qualification Directive (2011/95/EU). So, the tribunal accepted he could not safely return there. However, it found that he would be able to internally relocate either to the Kurdish administered area of Iraq (the IKR) or to Baghdad. It also found that he would be able to obtain a CSID card which is a crucial identity document in Iraq. That was important in the context of internal flight.

4. The tribunal explained why it disbelieved the claimant's account in a lengthy passage which runs from paragraph 20 to paragraph 29 of its written reasons. The parties are aware of what the tribunal had to say in that passage so it is not necessary for me to set it out here but it is clear that the tribunal found elements of the account offered by the claimant to be vague and implausible.

5. The appeal having been dismissed the claimant submitted grounds of appeal to the Upper Tribunal himself. Those grounds amounted to an assertion that he was at risk in Iraq at the hands of the Shia militia and that the tribunal had been wrong to

conclude that he could go to the IKR because he would not be permitted to do so without proof of his identity which he did not have. A judge of the First-tier Tribunal granted permission to appeal and relevantly said this:

“The grounds of appeal do not refer directly to the credibility assessment; however, the failure to accept the appellant’s account of his detention was as a result of the negative credibility findings. I think it is arguable that the credibility assessment was flawed. The judge makes findings in relation to the appellant’s credibility largely on the basis of speculation as to the implausibility of his account without identifying an evidential basis for those findings”.

6. The grant of permission was not stated to be limited. Having obtained permission to appeal the claimant obtained legal representation. The case was listed for a hearing before the Upper Tribunal (before me) so that it could be decided whether the tribunal had erred in law and if it had, what should flow from that. Representation was as stated above and I am grateful to each representative.

7. Mr Howard relied on the grounds and the grant of permission but made some additional points. He argued that because the tribunal had said it found the claimant’s account of his escape from the armed militia in the shop “improbable” it was apparent that it was applying the wrong standard of proof. It was applying a balance of probabilities standard rather than the real risk standard which applied in cases where international protection is sought. As to the tribunal’s finding that the claimant would be able to obtain a CSID card, its assessment had not “gone far enough”. Mr Howard also argued that the tribunal had erred in relying too much upon plausibility. Mrs Pettersen, for the Secretary of State, argued that the tribunal had provided adequate reasons for its adverse credibility conclusion and that it had applied the appropriate standard of proof throughout. It had been entitled to conclude, given its general adverse credibility findings, that the claimant would be able to obtain a CSID card.

8. I have concluded that the tribunal did not err in law. As a consequence, I have decided to dismiss the claimant’s appeal to the Upper Tribunal. What follows is my explanation as to why.

9. It is right to say that the tribunal found much of what the claimant had to say to be implausible. To pick out some examples, it thought it implausible that the claimant, after his release from detention in circumstances where he had been mistreated, would agree to be involved in the out of hours printing. It found the claimant’s account of being able to escape the Shia militia by simply using a back exit, to be implausible on the basis that the militia would have sought to make sure exits were covered. It found it implausible that the claimant’s boss would seek to involve the claimant in the printing, after the claimant had been detained, on the basis that doing so was taking a risk that the claimant might inform the militia of what was going on so as to bring their wrath upon his boss.

10. It is true that the tribunal’s credibility assessment did not rely on very much at all in the way of inconsistency but, applying common sense, a tribunal is allowed to take into account the degree to which an account is simply implausible or incredible. The tribunal took a number of such points and, in my judgment, all of them were

open to it. The cumulative impact of those various points does, in my judgement, amply justify the tribunal's adverse credibility conclusion. In short, it was entitled to reach the conclusion it did as to credibility, for the reasons it gave, on the material before it. So, I have concluded that the tribunal did not err in law in the way in which it was suggested it might have done when permission was granted.

11. The tribunal had to, and did, consider internal flight as a result of its conclusion with respect to the applicability of Article 15(c). As part of that assessment it asked itself whether the claimant would be able to obtain a CSID card. That was clearly an appropriate enquiry for it to make bearing in mind what is accepted to be the importance of such an identity document in Iraq for the purposes of obtaining employment and accessing government services. The tribunal did not accept that the claimant had lost touch with his family. It reasoned he would be able to obtain evidence required to re-document himself with the assistance of family (paragraph 30 of the written reasons). It found, if necessary, that he would be able to apply for "formal recognition of his identity" via the National Status Court in Baghdad. Its finding as to that has not been the subject of any specific challenge and it is explained in the written reasons (paragraph 31). The claimant had, in effect, argued that he did not have a CSID card and would not be able to get one. It is fair to say that the tribunal could have explained itself in more detail had it wished. But against the background of its adverse credibility finding its conclusion as to his ability to obtain a CSID card was open to it.

12. As to the appropriate standard of proof, the tribunal correctly set that out at paragraph 6 of its written reasons. The formulation it used was "substantial grounds for believing" but that is the same as saying there is a "real risk" of persecution or serious ill-treatment upon return. So, it correctly directed itself as to the standard of proof the claimant was required to reach. I am not persuaded that what it said at paragraph 28 of its written reasons suggests it was, at that point or at any other point in its deliberations, applying a higher standard than that. In using the term "improbable" the tribunal was simply, in context, making it clear that it did not believe, to the standard it was required to apply, that the escape had taken place.

13. In light of the above I am satisfied that the tribunal did not err in law. That does, as indicated, mean that the claimant's appeal to the Upper Tribunal must be dismissed.

14. The claimant was granted anonymity by the tribunal. Nothing was said about that before me but, in those circumstances, I consider it appropriate to maintain the status quo. So, the claimant continues to benefit from a grant of anonymity.

Decision

The decision of the First-tier Tribunal did not involve the making of an error of law. Accordingly, the claimant's appeal to the Upper Tribunal is dismissed.

The First-tier Tribunal granted the claimant anonymity. I continue that grant pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008. Accordingly, no report of these proceedings shall identify the claimant or any member of his family.

This grant applies to all parties to the proceedings. Failure to comply might lead to contempt of court proceedings.

Signed

**M R Hemingway
Judge of the Upper Tribunal**

Dated

14 August 2019