



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

Appeal Number: PA/06844/2019 (V)

THE IMMIGRATION ACTS

Heard at Manchester CJC via Skype

**Decision & Reasons
Promulgated**

On 8 December 2020

On 19 January 2021

Before

UPPER TRIBUNAL JUDGE PLIMMER

Between

EQ

ANONYMITY DIRECTION MADE

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the appellant: Ms Mason, Broudie Jackson and Canter

For the respondent: Mr Tan, Senior Home Office Presenting Officer

DECISION AND REASONS (V)

Pursuant to Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 (SI2008/269) an Anonymity Order is made. Unless the Upper Tribunal or Court orders otherwise, no report of any proceedings or any form of publication thereof shall directly or indirectly identify the original Appellant. This prohibition applies to, amongst others, all parties.

1. I have anonymised the appellant's name because this decision refers to his international protection claim.

Background

2. The appellant, a citizen of Iraq, has appealed against a decision of First-tier Tribunal ('FTT') Judge AJ Parker sent on 29 October 2019 dismissing his appeal on international protection and human rights grounds. The appellant's asylum claim can be summarised as follows: he is a Kurd who resided in Taba Souz, near Tuz in Iraq; in January 2019, Daesh ('ISIS') abducted and tortured him until he agreed to work for them; one day after his release he fled his village for Kirkuk and soon after that left Iran overland to Turkey.
3. The FTT concluded that the appellant's account of his abduction by ISIS was not credible on the basis that it was inconsistent and implausible, and he could in any event internally relocate.

Concession

4. At the beginning of the hearing before me Mr Tan conceded that the grounds of appeal contains errors of law. He noted the contents of a rule 24 response dated 15 May 2020 but confirmed that he placed no reliance upon it.
5. The respondent's concession was properly made for the reasons I summarise below and it is appropriate to allow the appeal, set aside the FTT decision and remit the matter to the FTT pursuant to rule 39 of the Tribunal Procedure (Upper Tribunal) Rules 2008.

Ground 1

6. The first ground of appeal challenges the credibility findings. The appellant has made a very serious claim that he was abducted and subjected to torture whilst in Iraq. The FTT's decision is not carefully drafted. The decision reads as a first draft that has not been checked. Sentences have been left incomplete. Punctuation is missing. The structure is confused and confusing. The appellant's account has not been carefully scrutinised by the FTT. The findings of fact have not been adequately reasoned and the FTT failed to consider the plausibility of the account in the context of the country background evidence. I summarise below the more significant issues of concern.

- (1) The finding at [29] is not adequately reasoned in the light of the appellant's clear evidence that he agreed to work for ISIS in order to stop the torture and secure his release - see Q83 of the asylum interview.

- (2) The reasoning at [33] is difficult to follow and confusing – it is entirely difficult to see why the FTT concluded that the appellant told a “completely different story”.
- (3) The FTT has made no effort to refer to the relevant country background evidence in support of the finding at [34] and has in any event given no reasons for finding the appellant’s claim to be implausible – see also [38].
- (4) It is entirely unclear what the FTT is referring to at [35] to [36] and [38].
- (5) The findings at [28], [37] and [42] demonstrate a misunderstanding of the lower standard of proof applicable in asylum appeals, notwithstanding the correct self-direction at [7]. It is entirely unclear whether the FTT attached weight to the appellant’s scars or not.

Ground 2

7. The second ground of appeal relates to the FTT’s findings on internal relocation. As Mr Tan acknowledged, Judge Parker has not directed himself to the country guidance case applicable at the time of the decision (AAH (Iraqi Kurds-internal relocation) Iraq CG UKUT 00212 (IAC)) and wrongly applied earlier country guidance. Although Judge Parker referred to Ms Mason’s reliance upon AAH at [59], Mr Tan accepted he has not engaged with it or made his factual findings in the light of it.
8. In addition, the basic errors of punctuation continue in the section headed ‘internal relocation’ and the appellant is referred to as a ‘she’ twice at [57]. Internal relocation in Iraq is fact sensitive and turns in part upon the appellant’s past account and his general credibility regarding documentation. Mr Tan invited me to find that there has been no appeal against the finding that the appellant can obtain his CSID from family members at [62] and this might be a preserved finding. I disagree. The errors in the decision are so significant and wide-ranging that in my judgment no findings can be preserved.

Final points

9. The FTT’s decision is replete with basic errors and omissions. These errors are clear upon any reasonable first reading of the decision, and ought to have been spotted and then corrected by Judge Parker, prior to promulgation.

Remittal

10. The factual findings must be remade entirely. I have had regard to para 7.2 of the relevant *Senior President's Practice Statement* and the nature and extent of the factual findings required in remaking the decision, and I have decided that this is an appropriate case to remit to the FTT to make completely fresh findings of fact.

Decision

11. The decision of the FTT involved the making of a material error of law. Its decision cannot stand and is set aside.
12. The appeal shall be remade by the FTT (a judge other than Judge AJ Parker) de novo.

Signed: **Ms M. Plimmer**
Judge of the Upper Tribunal

Dated: 8 December 2020