



**IN THE UPPER TRIBUNAL  
IMMIGRATION AND ASYLUM  
CHAMBER**

**Case No: UI-2022-000872  
FtT No: PA/52659/2021  
IA/07212/2021**

**THE IMMIGRATION ACTS**

**Decision & Reasons Issued:  
On the 21 September 2023**

**Before**

**UPPER TRIBUNAL JUDGE MACLEMAN**

**Between**

**S A I**

(anonymity order made)

Appellant

and

**S S H D**

Respondent

*For the Appellant: Mr S Martin, of Jain, Neil & Ruddy, Solicitors*

*For the Respondent: Mr M Diwyncz, Senior Home Office Presenting Officer (by video link)*

**Heard at Edinburgh on 13 September 2023**

**DECISION AND REASONS**

1. The appellant sought asylum in 2018, claiming that he and his partner are at risk of “honour killing” in Iraqi Kurdistan from her husband, RA, and his family, due to their illicit relationship. The respondent declined to accept his claim. The FtT dismissed his appeal. His rights of appeal were exhausted on 28 December 2018. There was no reference in the UT to the relevant decisions, but they appear to have turned mainly on lack of credibility.
2. The appellant made further submissions to the SSHD based on (i) DNA evidence that he is the father of the child LSA and (ii) an identity document (INID) to show that LSA was registered in Iraq as the child of RA.

3. By a decision dated 18 May 2021, the SSHD declined to accept the fresh claim. The appellant was accepted to be the father of LSA, but the INID was unreliable, of uncertain origin, and carried little weight. At [53 - 56] it was thought (unhelpfully, perhaps) that state protection and internal relocation did not need to be considered.
4. FtT Judge Sorrell dismissed the appellant's further appeal by a decision promulgated on 13 December 2021. At [20] she recorded the issues:
  - i. Is the Appellant relying upon facts that differ materially from those relied upon at his first appeal hearing?
  - ii. Does the Appellant have a genuine subjective fear that he and his family are at risk of honour-based violence in Iraq?
  - iii. Is that fear well-founded?
  - iv. Is there sufficiency of protection available to the Appellant and his family if returned to Iraq?
  - v. Is the Appellant and his family able to internally relocate within Iraq?
  - vi. Has the Appellant and his family established a private and family life in the UK? Would their return to Iraq amount to an interference of that right which engages Article 8 of the ECHR? If so, is the interference proportionate to the legitimate aim of effective immigration control and is it compliant with Section 55 of the Borders, Immigration and Citizenship Act 2009?
5. Judge Sorrell in effect resolved issues i - iii against the appellant, at [37] finding the CSID not to be reliable evidence that the appellant's partner was married to RA in Iraq. Her decision makes no further express reference to issues iv and v. The appellant does not dispute the dismissal of his case on issue vi.
6. The FtT refused permission to appeal to the UT. The appellant applied to the UT. Ground 1 is a detailed dispute with the FtT's assessment of the INID. One allegation is that the Judge left out of account her inspection of the document "which clearly bears the requisite hologram". Mr Martin accepted that ground 2, alleging error in declining to depart from the previous decision, is conditioned on ground 1.
7. On 29 May 2022, UT Judge Sheridan granted permission: ...
  2. It is arguable that several of the reasons given by the judge for finding the CSID unreliable (as set out in the grounds) are not sustainable.
  3. The grounds state that the original CSID was inspected by the judge and that it "clearly bears the requisite hologram". However, at [42] the judge stated that it was unclear whether a hologram was affixed. In order for the Tribunal to be able to evaluate this issue, the appellant must ensure that the original CSID is available for the UT judge to inspect at the error of law hearing.

8. On 28 September 2022, the SSHD responded to the grant of permission:

...

2. Given the core of the grounds of appeal rests on documentation that was submitted for inspection, which the author of this response does not have sight of at the time this response has been drafted; and its relevance to the other grounds of appeal – the author is unable to assess whether or not the observations made by the judge were accurate or not and whether or not the judge inspected the document as stated.

3. On the face of the determination, the judge has provided adequate reasons to support the decision having given consideration to the issues in the round; applied the background information and having taken the previous determination as the starting point. The findings (subject to the analysis of the CSID), were reasonably open to the judge and adequately reasoned. It will be a matter for the tribunal having inspected the original document (and the presenting officer who will attend the hearing), to re-visit the findings of fact made by the FTT Judge with the benefit of having viewed the CSID alongside the issues raised in the grounds.

9. Mr Martin drew attention to [36] of the decision, where the Judge records that parties agreed that the appeal “turned on the reliability of the CSID ...”. He submitted, along the lines of the grounds, that the CSID had features in line with background evidence, some of which were accepted by the FtT, and that its findings on discrepancies were unsustainable.

10. At [42] the FtT said that it was “... unclear whether a hologram is affixed to the photo as required because the fixture on the photo has simply been translated as a postal stamp”.

11. That is a reference to what is said on the translation of the document provided by the appellant. Mr Diwyncz accepted that what the translation says is irrelevant. It was the appearance of the document which mattered. He further said that use of holograms on identity documents, driving licences and the like is a matter of common knowledge and that although ideally authenticity should have been supported by an expert report, it was within the scope of a tribunal to take account of the appearance of the document.

12. Mr Martin exhibited the CSID (which was sent to the SSHD with the further submissions, was then returned, and remains now in the appellant’s custody). It appeared to me to bear a hologram, as commonly understood to be used on identity documents, imposed partly over the bottom part of the photograph of the document holder. The document was shown to Mr Diwyncz over the video link. He accepted that was what it appeared to be.

13. I indicated that the tribunal's reasoning about the hologram was unsustainable, and that while not necessarily upholding the other criticisms in the grounds, the point was so material that the decision could not safely stand.
14. Mr Martin submitted that the decision of the FtT should be reversed. Alternatively, he sought a remit.
15. Mr Diwnycz said whether the CSID was an apparently genuine document was not the beginning and end of the case; and if there was a concession, that was wrongly made, was now withdrawn, and should not stand in any remaking.
16. On the effect of the error, I prefer the submission for the respondent. The case cannot be decided on whether there is a hologram on a CSID, or even on resolving the other detailed criticisms in ground 1. As a fresh overall decision is required, it is preferable to leave those issues for future debate.
17. If the CSID is reliable, as to what it purports to show, that may help to show that the appellant and his partner are at risk in their home area, but it is not self-evident that the Refugee Convention is invoked; that state protection is inadequate; or that the appellant, his partner and their children cannot relocate within Iraq. Parties should make their respective positions clear on those issues in advance of any rehearing.
18. Accordingly, the decision of the FtT is set aside, and the case is remitted for a fresh hearing, not before Judge Sorrell.
19. Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, the appellant, pending further orders of a court or tribunal, 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 him. Failure to comply with this order could amount to a contempt of court.

Hugh Macleman  
Judge of the Upper Tribunal, Immigration and Asylum Chamber  
14 September 2023

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