



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: **UI-2022-006279**
First Tier No: **PA/52541/2022;**
IA/06571/2022

THE IMMIGRATION ACTS

Decision & Reasons Issued:
On 31 January 2024

Before

UPPER TRIBUNAL JUDGE LANE

Between

DZSA

(NO ANONYMITY ORDER MADE)

and

Secretary of State for the Home Department

Appellant

Respondent

Representation:

For the Appellant: Ms Brakaj
For the Respondent: Mr Diwnycz, Senior Presenting Officer

Heard at Phoenix House (Bradford) on 19 July 2023

DECISION AND REASONS

1. The appellant, a citizen of Iraq, born on 10 August 1991 was refused international protection by a decision of the Secretary of State dated 11 January 2022. He appealed to the First-tier Tribunal, which in a decision dated 30 November 2022, dismissed his appeal. The appellant now appeals, with permission, to the Upper Tribunal.
2. At the initial hearing at Bradford, the parties agreed that the judge had erred in law such that her decision falls to be set aside. I agree. The findings of fact made by the judge do not sit easily with the analysis of the evidence. For example, the judge at [40] made a number of criticisms of the death certificate of the appellant's father:

40. The further issue to address is whether the Appellant is now being truthful regarding his father's role as an interpreter, his father's death and the later harm and threats his family suffered as a result. The Appellant now relies on a death certificate which he states he obtained from his sister. I have read through the translated copy of this

document. It refers to the cause of death as “torture marks.” This is confusing as it is not a cause of death but an observation about the deceased’s body. I have no information on whether this is a format for giving the cause of death when someone is tortured and dies in Iraq. The date of the death is given as Sunday of the first month of 2007. This is again an unusual date but I have no information on why the day of the week is given and not a number of the first month. It does mean that the Appellant was aged about 15 at this time. The death certificate is a copy and is dated this year - I am unclear as to why it would not be dated the year of the Appellant’s father’s death. There is no other information to support the Appellant’s claim that his father was working as an interpreter for the US forces and that this was the reason for his death.

3. Despite that analysis, at [52] and without any further discussion of the evidence, the judge wrote: ‘I do accept that it is reasonably likely that his father suffered a violent death but not for the reasons the Appellant has claimed in his various accounts.’ I agree with the appellant that there appears to be no obvious rationale for the judge finding that the appellant’s father died violently (as opposed to in any other manner) if, as seems to be the case, she has cast serious doubt on the appellant’s account of the death of his father and on the death certificate. Moreover, it is not clear what inferences exactly the judge draws from her finding, in particular what affect, if any, the father’s violent death may have on the risk faced by the appellant on return Iraq.
4. Secondly, at [51], the judge considered the appellant’s religious beliefs:

The reference to the Appellant renouncing Islam appears to be an issue included in the skeleton argument with little basis in fact. The Appellant referred to an interest in Christianity and attending church in Germany but he has not formally made any conversion and there is no evidence of continuing attendance or connection with a church in this country. The reference to atheism is not supported by the views he expressed in his interview and the current position appears to be that he does not identify with any religion.

5. It was not any part of the appellant’s case that he had rejected Islam in favour of Christianity so it is unclear what importance the judge attaches to her observation that the appellant has no ‘continuing attendance or connection with a church in this country.’ There is no assessment of the appellant’s real risk on return as a person who does not actively follow any religion.
6. The lack of clarity in the decision is such that I do not consider that the appellant will readily understand why his appeal was dismissed. Accordingly, I set aside the decision and return it to the First-tier Tribunal for that Tribunal to remake the decision following a hearing *de novo*.

Notice of Decision

The decision of the First-tier Tribunal is set aside. None of the findings of fact shall stand. The appeal is returned to the First-tier Tribunal for that Tribunal to remake the decision after a hearing *de novo*.

C. N. Lane
Judge of the Upper Tribunal
Immigration and Asylum Chamber

Dated: 22

December 2023