



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2023-005186
FtT No: PA/53046/2023

THE IMMIGRATION ACTS

**Decision & Reasons Issued:
On the 05 November 2024**

Before

UPPER TRIBUNAL JUDGE O'CALLAGHAN

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

**GN (IRAQ)
(ANONYMITY ORDER MADE)**

Respondent

Representation:

For the Appellant: Mr A McVeety, Senior Presenting Officer

For the Respondent: Ms L King, Counsel, instructed by Asylum Justice, Cardiff

Heard at Field House on 31 October 2024

Order Regarding Anonymity

Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, the appellant 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 the appellant. Failure to comply with this order could amount to a contempt of court.

DECISION AND REASONS

Introduction

1. In this decision, the parties are referred to as GN and the Secretary of State.
2. The Secretary of State appeals the decision of First-tier Tribunal Judge Trevaskis (“the Judge”) allowing GN’s asylum appeal. The Judge’s decision was sent to the parties on 7 November 2023.

Anonymity Order

3. The Judge issued an anonymity order. Neither party requested that it be set aside. As GN seeks international protection, I consider that his rights protected by article 8 ECHR presently outweigh the rights of the public to know his identity as a party to these proceedings. The latter right is protected by article 10 ECHR. The anonymity order is set out above.

Brief Facts

4. GN is a national of Iraq, an ethnic Kurd and aged 43. He hails from Erbil in the Kurdistan Region of Iraq (“KRI”). He arrived in the United Kingdom on 15 December 2019 and claimed asylum on the same day. In seeking international protection GN relied upon his conversion to Christianity, stating that his conversion followed a dream and a subsequent conversation with a friend who was Christian. Following his conversion, he was threatened by members of his family and tribe. He fears being killed by his uncle and members of his tribe.
5. The Secretary of State refused the asylum claim by a decision dated 21 December 2020. GN’s appeal against this decision was dismissed by First-tier Tribunal Judge Murray on 3 December 2021. Judge Murray noted GN’s evidence that he had been friendly with his Christian friend for five years, and lived close to Christians, but by the time of his asylum interview “he knew almost nothing about Christianity”. Judge Murray accepted that GN attended a church in the United Kingdom and that a religious minister believed him to be a genuine convert. However, Judge Murray gave cogent reasons for rejecting GN’s explanation as to his not attending a church in this country for the first eighteen months after his arrival and not making enquiries as to locating a place of worship during this time. Judge Murray noted GN’s vagueness as to the number of threats directed towards him following his conversion. Ultimately, she concluded that GN was not a genuine convert.
6. GN submitted further representations. By a decision dated 12 May 2023, the Secretary of State accepted that the representations constituted a fresh claim under paragraph 353 of the Immigration Rules, but did not grant GN leave to remain as a refugee. The Secretary of State considered several letters of support accompanying the further representations. She observed Judge Murray’s findings and the inconsistencies in GN’s account as to events occurring in Iraq. At para. 24 of her decision, the Secretary of State noted evidence provided by the Tabernacle Church and concluded that it was “strong”. She accepted at para. 25 of her decision that GN is a

genuine Christian convert. However, she concluded that there was no objective risk for him as a convert in the KRI.

The First-tier Tribunal Decision

7. The appeal came before the Judge sitting in Newport on 2 November 2023. GN was represented by Ms I Knight, Counsel, and the Secretary of State by Ms S Williams, Presenting Officer. GN attended the hearing and gave evidence.
8. The Judge found GN to be a credible witness, at [19] of the decision. It was noted that his account had remained consistent throughout, and his credibility was not damaged by cross-examination. The Judge concluded that GN's credibility was enhanced by the Secretary of State's concession as to his religious conversion.
9. As to the issue of risk of serious harm in Iraq, the Judge confirmed that he was satisfied GN remained in contact with his wife in Iraq, and she had informed him that his uncle continued to exhibit an adverse interest in him, at [22].
10. As to the risk from state actors, the Judge concluded that whilst there was little evidence that members of religious minorities in the KRI face ill-treatment from the authorities, there was clear evidence that mistreatment amounting to persecution or serious harm was carried out with impunity by tribes, family members and militias. The Judge found that there was a real risk that GN would not receive sufficient protection from the KRI authorities, at [27].
11. The Judge found that GN could not internally relocate, at [28] - [31]. At [31] the Judge reasoned:
 - “31. I accept the evidence of the appellant that his family has threatened him by reason of his conversion, which is regarded as an offence against family honour. Accordingly, I am satisfied to the required standard that his relocation within KRI to avoid persecution will not be reasonable or successful.”
12. The Judge concluded, at [32] - [33]:
 - “32. The appellant is a genuine Muslim Christian convert. According to HJ (Iran), I find that he will be unable to practice his religion openly for fear of persecution by non-State actors; he cannot be expected to conceal his religious belief. I find that he has a well-founded fear of persecution on religious grounds.
 33. He will be unable to receive sufficient protection from the authorities. It will not be reasonable to relocate internally to escape persecution.”

Grounds of Appeal

13. The Secretary of State advances two grounds of appeal:

- “b) As should be reflected in the Tribunal’s Record of Proceedings (ROP), the Home Office Presenting Officer cross-examined the appellant during the hearing with regards to his contact with his wife. This revealed that she has not been contacted nor threatened by the appellant’s family members since she relocated away from their former residence. However, the FTTJ states the opposite in their findings [22]. This is clearly a mistake to a material fact.
- c) The FTTJ also finds that the authorities within the IKR would not be able to provide protection and that non-state actors can harm converts with ‘impunity’ [24], which is not made out in their consideration of the evidence. The HO CPIN on religious minorities (version 3 published July 2021) states at section 6 that protection is available within the IKR to Christian converts, although the authorities cannot guarantee ‘constant protection’. This shows the FTTJ is incorrect in their finding that protection is not available.”

14. The grounds additionally detail:

- “d) Furthermore, the FTTJ’s consideration of internal relocation is flawed for the aforementioned reasons, as there is no ongoing interest from his family and appellant can seek protection from the authorities where necessary with the law in place to protect his rights (again cited in section 6 of the CPIN). The ROP will also reflect that cross-examination revealed his family hold no authority or influence with those who do and therefore it has not been made out that they would be able to 1) know if he returned, 2) have an ongoing interest/ what their current views are, or 3) be able to locate him if he relocated internally”

15. Before me Mr McVeety acknowledged that (d) of the grounds adds little more to the two grounds detailed above.

16. By a decision dated 4 December 2023 First-tier Tribunal Judge Moon granted the Secretary of State permission to appeal:

- “2. A key finding is contained within paragraph 22 which is that the appellant remains in contact with his wife who has informed him that his uncles continue to show an adverse interest in him. It is not clear what the oral evidence at the hearing was but this finding of recent adverse interest in the appellant is inconsistent with the appellant’s witness statement that his wife has relocated to the village of [B] following their separation when he was leaving the country. It is arguable that the Judge has not given adequate reasons for this key finding which appears to be in contradiction to the appellant’s case. This finding is also relevant to the issue of internal relocation. Findings in relation to sufficiency of state protection form part of the same ground of appeal but the reasoning in relation to this aspect is adequate and

consistent with section 6 of the respondent's CPIN Iraq; Religious minorities Version 3.0 July 2021."

17. The hearing initially came before me at Field House on 16 August 2024. It was adjourned as the Secretary of State experienced difficulties in filing and serving by email a witness statement prepared by Ms Williams. Directions were issued for a copy of Ms Williams' witness statement to be filed and served no later than Friday 21 August 2024.
18. For reasons that are still unknown, the witness statement was only filed by Mr McVeety on the morning of the hearing in October 2024. Mr McVeety confirmed, and Ms King agreed, that the witness statement of Ms Williams did not advance the Secretary of State's case.
19. In respect of ground 2, Mr McVeety was unable to provide the Upper Tribunal with a copy of the CPIN referred to, it having since been replaced by version 4.0 in September 2024. He confirmed that he had experienced difficulties in securing an archived copy.

Witness Statements

20. GN filed a witness statement from Ms Knight dated 19 August 2024, accompanied by Ms Knight's personal note of the hearing. Ms Knight confirmed that due to the time that had passed since the hearing, she was unable to record what happened from memory. However, she was content to provide a copy of her contemporaneous note of the hearing, which she typed during the course of the hearing. Whilst not a verbatim note, she expressed confidence that the record was accurate.
21. Relevant to this appeal is the following evidence of GN recorded by Ms Knight as being given in cross-examination. GN confirmed that his wife had left the family home when he did but continued to live close by, some twenty minutes away by car. He explained, "All the family members are standing against her right now, they want her to disconnect with me and to get separated from me." He confirmed that his uncle was against the relationship, as were other members of the family, because they were strict in their religion. He further detailed that approximately a month before the hearing his wife had received messages from other people confirming that his uncle and another relative were following any updates being provided by others as to GN's circumstances. GN further detailed in evidence "As far as I am aware she is not in contact with them, but she received news from them via her own family, although my wife has not told me directly she is not in contact, but I am aware of that."
22. By her witness statement dated 15 September 2024, Ms Williams confirmed that she was unable to recall proceedings from memory. However, she was able to refer to her personal record of proceedings and her "hearing minute" drafted at the conclusion of the hearing. At para. 7 of her statement, Ms Williams confirms:

“7. The appellant was asked to clarify which family members he was referring to (paragraph 6). He stated his “uncles [A] and [K] mainly” referring to them as very strict and that his wife had received messages the previous month from “other people”. I asked the appellant why his wife hadn’t returned to live in the place where they had lived together if it were the case that the uncles whom he claims to fear were able to contact her where she was currently living. I recorded the appellant’s reply to be “as far as I am aware she not in contact with [A] and [K]. I am aware they are not in contact”.”

23. Neither Ms Williams personal record of proceedings nor her hearing minute were exhibited with her witness statement.

Discussion

24. With his usual candour, Mr McVeety accepted that the respondent had not provided relevant documents supporting the two grounds of appeal advanced. There was no contemporaneous note from the respondent as to evidence given at the hearing, and he did not consider it appropriate to go behind the record provided by Ms Knight. Secondly, he was unable to secure a copy of the relevant CPIN. In the circumstances, he accepted that both grounds were not made out and consequently he confirmed that the respondent conceded that her appeal should be dismissed.

25. I consider Mr McVeety’s concession on behalf of the respondent to be properly made. The Secretary of State’s appeal is dismissed.

Notice of Decision

26. The decision of the First-tier Tribunal sent to the parties on 7 November 2023 is not subject to material error of law.

27. The Secretary of State’s appeal is dismissed.

28. An anonymity order is confirmed.

D O’Callaghan
Judge of the Upper Tribunal
Immigration and Asylum Chamber

4 November 2024