



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2024-003526

First-tier Tribunal No: PA/50228/2023

THE IMMIGRATION ACTS

Decision & Reasons Issued:
On the 06 November 2024

Before

UPPER TRIBUNAL JUDGE FRANCES

Between

S S
(ANONYMITY ORDER MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr A Chohan, instructed by Kings Law Solicitors
For the Respondent: Ms S Lecointe, Senior Home Office Presenting Officer

Heard at Field House on 25th 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

1. The Appellant is a citizen of Iraq born in 1990. He appeals against the decision of First-tier Tribunal Judge Aldridge dated 18 September 2023 dismissing his appeal on asylum, humanitarian protection and human rights grounds.
2. The Appellant is a Sunni Muslim from a village in the Erbil region of Iraq. He arrived in the UK on 1 December 2017 and claimed asylum on the same day. His application was refused on 30 May 2018 and his appeal against this decision was dismissed on 13 August 2018 by First-tier Tribunal Judge Murray. The Appellant

lodged further submissions on 20 October 2021 which were refused by the Respondent on 5 January 2023. The Appellant's appeal against this decision was dismissed by Judge Aldridge for the following reasons.

3. Judge Aldridge found that the previous decision of Judge Murray was the starting point. It was accepted the Appellant was credible in respect of his relationship with Z and the subsequent attacks and threats from her family. The Appellant was at risk of honour killing and there was insufficiency of state protection from Z's family, in particular her brothers in Makhmur. However, Judge Murray went on to find that there was no evidence to suggest the Appellant could not relocate to Sulaymaniah where he would not be traced by Z's family. Judge Murray found the Appellant was not credible in respect of his inability to contact his uncle since he arrived in the UK. Judge Murray did not accept the Appellant would suddenly cease contact or that there would be no means of contact through a friend, the postal services or some other form of social media. Judge Murray stated it was Appellant's evidence that he had given his ID card to his maternal uncle. Judge Murray found the Appellant would have a male family member who could attend the civil registry and obtain a Civil Status Identity Document (CSID) on the Appellant's behalf.
4. When the matter came before Judge Aldridge he found that there was a continuing threat from Z's brothers who were part of the Shia militia and therefore a continued threat of persecution. Judge Aldridge went on to find that he did not accept there had been any fresh evidence to suggest the Appellant would be unable to relocate to Sulaymaniah where he would not be traced by Z's family and he did not deviate from the original findings of Judge Murray.
5. At [31], Judge Aldridge stated:

"I have carefully considered the new submissions in respect of the claimed attempts by the appellant to make contact with his family in Iraq and, thus, his ability to obtain his CSID. I turn to the translated phone call which is claimed to have (sic) a conversation with the maternal uncle. I can find no evidence that the call translated was with the uncle of the appellant as claimed. I can attach little weight to it as I also attach little weight to the lists of cancelled telephone calls made to a number provided by a friend that the appellant was able to locate. There is nothing to suggest that this number is related to the uncle at all".
6. At [32], Judge Aldridge considered the Appellant's claim that he was able to contact a friend to obtain his uncle's telephone number. Judge Aldridge found it was implausible the Appellant was unable to make that connection before the previous hearing given he was able to contact his old boss in Erbil after many years. Judge Aldridge concluded:

"I do not accept that the appellant lost contact with his uncle who had gone to such efforts and, no doubt, expense to enable the appellant to travel to the UK. I find it remarkable that the appellant does not have the ability to contact any friends in Iraq through social media and conclude that the appellant is not credible in this respect. I do not accept that it is unreasonable for the appellant to make contact with family or friends through social media, telephone or postal service. I find no reason to deviate from the previous findings of the immigration judge that it will be possible for the appellant to contact a family member and make arrangements for the return of his CSID."
7. At [33], Judge Aldridge considered the Country Policy and Information Note (CPIN): Internal relocation, civil documentation and returns, July 2022 and found

the Appellant could be returned on a laissez-passer to Erbil and he would have access to his CSID. Alternatively, he could relocate to Sulaymaniah.

8. Judge Aldridge applied the country guidance of SMO and KSP (Civil status documentation, article 15) CG (Iraq) [2022] UKUT 110 (IAC) (SMO(2)). It was necessary for the Appellant to have either a CSID or an Iraqi Nationality Identity Card (INID) in order to live and travel within Iraq without encountering treatment or conditions contrary to Article 3 ECHR. Judge Aldridge noted the CSID was being replaced with a new biometric INID and it was necessary for the Appellant to have one of these two documents. He acknowledged that if the Appellant had lost his CSID or was unable to get it from his uncle then he would not be able to redocument himself. However, Judge Aldridge found the Appellant was not a witness of truth in respect of his claim to be unable to get his CSID card from his uncle. Judge Aldridge found the Appellant had left his CSID with his uncle when he left Iraq.
9. Judge Aldridge did not accept the Appellant's claim to have lost contact with his family in Iraq and concluded the Appellant remained in contact with his uncle and could obtain a CSID/INID on return.

Grounds of Appeal

10. The Appellant's grounds of appeal are unclear but in essence the Appellant challenges Judge Aldridge's conclusion in respect of his ability to redocument himself on return to Iraq. It was submitted that Judge Aldridge failed to have due regard to the CPIN on internal relocation and the principles laid down in SMO(2). It is the Appellant's case that he is an undocumented individual with no connections in Iraq and his family is not in a position to assist him. He submits he has never claimed that his family in Iraq have his CSID. The Appellant was not in possession of his CSID and did not bring it to the UK. Without his CSID it is not possible for the Appellant to travel from the airport and relocate.
11. In oral submissions, Mr Chohan adopted the grounds and submitted that this case turned on Judge Aldridge's assessment of the CSID and a proper application of SMO (2). Mr Chohan stated the Appellant had contacted the Red Cross and had managed to use an old friend in Iraq via Facebook Messenger to obtain his uncle's telephone number. Mr Chohan submitted it was the Appellant's evidence before the First-tier Tribunal that he did not have a CSID and he had left a form of ID, but not an INID, with his uncle when he came to the UK. The Appellant's uncle had blocked the Appellant's calls from the UK and ostracised him because of the risk.
12. The Appellant had produced evidence of the conversation he had with his friend who had given him his uncle's telephone number and then there was evidence of the Appellant having called his uncle who had hung up after 55 seconds. The Appellant rang his uncle several times after that but the uncle refused to answer having already said that he did not want anything to do with the Appellant. The Appellant's uncle is important because the Appellant's father has dementia so without documentation there is no adult male member to assist the Appellant to obtain documentation on return to Iraq. It was the Appellant's case that his uncle could not help him and the Appellant had never said he had given his CSID to his uncle. The Appellant had done everything he could do. Judge Aldridge was requiring corroboration and proof beyond the standard of a reasonable likelihood.

13. Ms Lecointe submitted the grounds amount to a disagreement with Judge Aldridge's findings. Judge Aldridge had properly directed himself following Devaseelan and the decision of Judge Murray was the starting point. Judge Murray had made sustainable credibility findings and Judge Aldridge was entitled not to depart from them. Judge Aldridge had applied appropriate weight to the evidence and it was open to him to reject the Appellant's evidence and uphold Judge Murray's previous findings on the basis there was no new evidence that the Appellant's family in Iraq were unable to help him obtain a CSID. There was no evidence before Judge Aldridge that the Appellant's friend in Iraq was a reliable source and he did not accept the evidence of telephone calls to the Appellant's uncle.
14. There was nothing before Judge Aldridge to enable him to depart from the findings of Judge Murray. There was no misdirection on the country guidance in SMO(2). Judge Aldridge did not accept the Appellant's evidence that he was unable to make connections with his family via Facebook because he had previously been able to contact an old boss. Judge Aldridge rejected the Appellant's account that his uncle had turned his back on him and would not assist him in the future. He found the Appellant's account was not credible and he was entitled to reach the conclusions he did on the evidence before him.
15. In response, Mr Chohan submitted the Appellant had no other way of contacting his uncle save through the friend who is his uncle's barber. The Appellant was required to show he had made all efforts to corroborate his claim and he had done so. The Appellant's evidence for why he left Iraq was not challenged before Judge Murray and he could not get further verification of the evidence of a Facebook conversation. The Appellant did not have access to identity documents and the only people to assist him did not want to have anything to do with him. The Appellant's family were not talking to him and it was not possible to verify his ID.

Conclusions and Reasons

16. Mr Chohan confirmed there was no challenge to Judge Aldridge's Article 8 findings and no challenge to the findings in respect of the Appellant's sur place activities. Mr Chohan accepted that no challenge to these findings was pleaded in the grounds of appeal and permission had not been granted on that basis. The challenge was to the findings that the Appellant was in contact with his uncle and could obtain his CSID or an INID on return to Iraq.
17. In his asylum interview the Appellant stated that he had given his ID card to his maternal uncle. Judge Murray did not accept the Appellant had lost contact with his uncle and relied on the Appellant's own evidence that his uncle had his ID card in finding, at [37] of his decision, that the Appellant had a male family member who could attend the civil registry and obtain a new CSID on the Appellant's behalf.
18. Judge Aldridge properly applied Devaseelan and the starting point was Judge Murray's finding that the Appellant was in contact with his uncle and could obtain a CSID. At [13] of Judge Aldridge's decision, the Appellant confirmed he gave his ID card to his uncle and he did not know the number of it. At [29], Judge Aldridge referred to Judge Murray's finding that the Appellant would have a male family member to obtain a CSID.

19. It was the Appellant's case before Judge Murray and Judge Aldridge that he gave his ID card to his uncle in Iraq but since he arrived in the UK he had lost contact with his uncle and his family and therefore he was unable to obtain a CSID on return to Iraq. Judge Murray rejected the Appellant's claim to have lost contact with his uncle and the Appellant ran the same argument before Judge Aldridge.
20. Judge Aldridge considered the oral evidence of the Appellant and the documentary evidence produced in support. The Appellant's evidence demonstrating that he had lost contact with his uncle amounted to a Facebook messaging conversation with a friend in Iraq. The conversation showed that the Appellant spoke to RH and RH gave him a telephone number. There is a call to this telephone number for 55 seconds and thereafter there is a repeated number of cancelled calls. Judge Aldridge took this evidence into account at [31] of his decision and attached little weight to it because there was insufficient evidence to show that the number which the Appellant claimed to have called was the telephone number of his uncle in Iraq. Judge Aldridge gave adequate reasons at [32] for rejecting the Appellant's claim to have lost contact with his uncle or to be unable to resume contact through social media, telephone or the postal service.
21. Mr Chohan's submitted the ID card was some form of national identity document which was neither a CSID nor an INID. However, this does not undermine the findings of Judge Murray and Judge Aldridge that the Appellant had not lost contact with his uncle and had a male family member to assist him to obtain a CSID or INID.
22. I find there is no error of law in Judge Aldridge's finding that the Appellant will be able to return to Erbil and obtain a CSID or INID with the assistance of a family member and/or his uncle. Alternatively, the Appellant will be able to internally relocate to Sulaymaniah. I find there was no misapplication of SMO(2).
23. In summary, there was insufficient evidence before Judge Aldridge to show that the Appellant had lost contact with his uncle and family. Judge Aldridge gave adequate reasons for rejecting the Appellant's explanation and his conclusions were open to him on the evidence before him.
24. I find there was no material error of law in the decision dated 18 September 2023 and I dismiss the Appellant's appeal. The decision to dismiss the Appellant's protection claim on asylum, humanitarian protection and human rights grounds stands.

Notice of Decision

Appeal dismissed.

J Frances

Judge of the Upper Tribunal
Immigration and Asylum Chamber

5 November 2024