



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: PA/12264/2017

THE IMMIGRATION ACTS

Heard at Birmingham
On 10th January 2019

Decision & Reasons Promulgated
On 15th February 2019

Before

DEPUTY JUDGE UPPER TRIBUNAL FARRELLY

Between

Mr. H G
(ANONYMITY DIRECTION MADE)

Appellant

And

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the appellant: Ms Imamovic, Counsel, instructed by Duncan Lewis
(Birmingham)

For the respondent: Mr. D. Mills, Senior Presenting Officer

DECISION AND REASONS

Introduction

1. The appellant is a Kurdish national of Iraq born on 7 November 1999. He came from a village close to the city of Tuz Khramatu in the Salah al Din Governate.

2. He claimed that Isis took over their village in the middle of 2015 and demanded food from the appellant's parents. The family themselves were in dire straits and decided to leave for a camp outside Kirkuk. The appellant claimed that along the way they lost his mother. The appellant said he was an only child. In the camp his father remarried and the appellant did not get on with his stepmother and there were constant arguments with his father and stepmother. In the end his father arranged for him to leave the camp with an agent. In this way he travelled to the United Kingdom.
3. His appeal against the refusal of his claim was heard by First-tier Tribunal Judge S.Aziz. The appellant had been cross-examined about his contact with the Red Cross in relation to his claim he did not know the whereabouts of his family. He said he was waiting on the Red Cross to contact him after an initial enquiry was made. The judge did not find the appellant to be credible and rejected the underlying claim of leaving his home area. The judge was prepared to accept the appellant's account that in August 2015 Isis took control of his village. The judge did not accept his claim that the situation was so bad they relocated to a camp and that en route they lost his mother or that his father remarried. The judge did not accept the appellant's claim that his father had disowned him or that he had no family home.
4. The respondent sought to argue that the country guidance decision of AA (Article 15(c)) Iraq CG [2015] UKUT 00544 and AA (Iraq) -v- SSHD [2017] EWCA Civ 944 no longer applied, based upon improvements in the country. First-tier Tribunal Judge Aziz did not agree and concluded the appellant would face an article 15(c) risk in his home area.
5. At paragraph 67 onwards the judge considered the feasibility of the appellant being able to relocate within Iraq other than the IKR given that he came from a contested area. The judge concluded he could not relocate and live in Baghdad on the basis it would be unduly harsh for him. He was a Kurd and did not speak Arabic
6. The judge did take the view that the appellant could reasonably relocate to Erbil or another part of the IKR. The judge did not accept the appellant's claim that he had never received any education or that he had never worked beyond occasionally helping on the family farm. The judge found that the appellant did have family in Iraq and rejected the appellant's claim that he had lost contact with his father. The judge concluded that if his father was able to assist him in travelling to the United Kingdom he could similarly assist them to travel from Baghdad to the IKR and to establish himself. The judge concluded his prospects of finding employment were good.

7. In summary, the judge did not find the appellant to be credible. The judge rejected the appellant's account of his own circumstances and the reason why he left his home village. The judge found the appellant continued to have family including his father to support him. The judge found the area he was from was still a contested area, that he could not reasonably relocate to Baghdad but he could reasonably relocate to the IKR.

The Upper Tribunal

8. Permission to appeal was primarily granted on the basis it was arguable the judge erred in law by failing to make findings as to whether the appellant would be able to obtain a CSI D either in the United Kingdom or Iraq. The grounds had also taken issue with the judge's credibility findings and these were open to argument.
9. At hearing, Ms Imamovic continued to rely on the grounds for which permission was granted. In particular, she said there was no finding as to the appellant's ability to get the necessary documentation. Mr Mills contended that the question of the return and documentation was linked to the credibility findings. He submitted that judge had given rational sustainable reasons for finding the account not credible. He submitted that it was in the appellant's interested claim he had no documentation. However, the burden of proof is upon the appellant and this in turn links with his credibility.
10. I agree with Mr Mills' submission that the question of documentation is linked to the appellant's overall credibility. The judge did not accept his account of fleeing his home village and ending up in a camp along with his father and stepmother, having lost his own mother en route. Mr Mills makes the obvious point that if the family were really so desperately hard up that they could not share their food with Isis they would not be in a position to pay the inevitable expenses for the appellant's journey to the United Kingdom. The appellant has indicated this was done through traffickers through a series of moves. It is common knowledge that this is at a significant cost. If the appellant and his father were finding life together so difficult a much easier solution would be for the father to tell the appellant to go on live in another part of the camp. The judge in fact did not accept the claim they ever where in a camp.
11. It is very easy to claim destitution; a lack of education and an absence of documentation or know the family registration details. The judge has not accepted these features. The judge did not find estrangement from the appellant's father. The judge was influenced by the apparent contradiction between the family being in abject poverty and fighting over food and not getting on with his father then paying smugglers take the appellant to the United Kingdom.

12. Notwithstanding the adverse credibility findings the judge has demonstrated an even handed approach in the assessment of the claim. The Judge rejected the respondent's contention that there had been an improvement in the appellant's home area and found that a 15 C risk continued. The judge then went on to consider the question of relocation in the circumstance. The judge set out in detail at paragraph 67 the factors established by AA to be taken into account when assessing relocation within Iraq other than the IKR. The judge concluded it would be unduly harsh to expect the appellant to remain in Baghdad.
13. The judge did find that he could reasonably relocate to the IKR. The subsequent decision of AAH (Iraqi Kurds - internal relocation) CG UKUT 212 confirms that a CSID or a valid passport is equally necessary to travel onwards from Baghdad. AA stated that given the violence in Salah al Din alternative CSA offices operate in Baghdad. The judge rejected his claim of estrangement from his father. If he has no such documentation his father could assist him and if necessary go to Baghdad and vouch for him.
14. I can find no fault with the judge's credibility assessment and for the same reason find the appellant has not demonstrated either he has no documentation or cannot obtain documentation. Therefore I find no error of law established in the decision.

Decision

No material error of law has been established in the decision of First-tier Tribunal Judge Aziz. Consequently, that decision, dismissing the appellant's appeal shall stand

Francis J Farrelly
Deputy Upper Tribunal Judge.

10 February 2019