Upper Tribunal

(Immigration and Asylum Chamber) **Appeal number: PA/00579/2020 (V)**

THE IMMIGRATION ACTS

Heard Remotely at Manchester CJC	**Decision & Reasons Promulgated**
On 13 April 2021	**On 15 April 2021**

Before

UPPER TRIBUNAL JUDGE PICKUP

Between

NN

(ANONYMITY ORDER MADE)

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

DECISION AND REASONS (V)

For the appellant: Mr M Karnik, instructed by R&A Solicitors

For the Respondent: Ms R Pettersen, Senior Presenting Officer

This has been a remote hearing which has been consented to by the parties. The form of remote hearing was video by Skype (V). A face-to-face hearing was not held because it was not practicable, and all issues could be determined in a remote hearing. At the conclusion of the hearing, I reserved my decisions and reasons, which I now give. The order made is described at the end of these reasons.

1. The appellant, an Iraqi national who emanates from Mosul, capital of the Ninewah Governorate, is of mixed Arab and Kurd ethnicity, with date of birth given as 17.8.87, has appealed with permission to the Upper Tribunal against the decision of the First-tier Tribunal promulgated 25.3.20 (Judge Meyler), dismissing on all grounds his appeal against the decision of the Secretary of State, dated 30.12.19, to refuse his claim for international protection made in further submissions of 13.10.19.

2. The grounds of application for permission to appeal to the Upper Tribunal raise two grounds. Ground 1 asserts that the First-tier Tribunal erred in application of the Country Guidance of SMO, misunderstanding the appellant's evidence and failing to consider the various documents he would need to provide to the Iraqi authorities to obtain redocumentation, as set out in AAH and endorsed in SMO.

3. Ground 2 argues that the First-tier Tribunal Judge erred in her approach to the assessment of credibility and in particular the characterisation of the appellant's father's death certificate as "excessively informal, non-medical and atypical of the type of language that might be recorded as a cause of death by a professional doctor conducting an autopsy." It is argued that whilst that might be a view which an expert could take, it was not open to the judge to make such a finding.

4. Permission to appeal was granted by the First-tier Tribunal on 29.4.20, on ground 1 only. However, when the application was renewed to the Upper Tribunal, Upper Tribunal Judge Perkins granted permission on ground 2 on 12.10.20, considering that whilst inclining to the view that the judge gave lawful reasons for being unimpressed by the death certificate, it was arguable "that the judge should not have regarded it as she did without reference to a known comparator."

5. The respondent's Rule 24 reply, dated 8.1.21, points to the judge's finding that the appellant's CSID remains in the possession of his family member with power of attorney, that his identity had been previously verified by the Iraqi Consulate in the UK, and that the appellant was aware of his book and page number for his family record. Pursuant to SMO at [383], with a current or expired passport and/or the book and page number for the family registration a CSID can be obtained through the consular section of the Iraqi Embassy in London, as it does not have an INID terminal. It is submitted that in the premises, the conclusion that the appellant would be able to obtain a CSID before his return to Iraq is sustainable. Alternatively, family members could obtain a replacement CSID from the local CSA office in Iraq.

6. In relation to the death certificate, the respondent points out that regardless of the manner in which his father had been killed, the judge was not satisfied that anyone would have an adverse interest in the appellant now.

7. I have carefully considered the decision of the First-tier Tribunal in the light of the submissions and the grounds of application for permission to appeal to the Upper Tribunal.

8. In relation to Ground 1, I am satisfied that the judge properly applied the Country Guidance of SMO and the information as to what was required for redocumentation,

as it was understood at that time. Whilst Mr Karnik made submission at the First-tier Tribunal appeal hearing that Ninewah had introduced the INID system so that the appellant would not be able to obtain an INID from consular facilities in the UK, the judge was correct to rely on both SMO and AAH, as set out at [36] and [37]. Whilst a list of documents are supposedly required, AAH noted that even in the absence of some of them, there was a degree of flexibility and it may be possible to overlook some official requirements. However, the key piece of information was the family's volume and page reference in the civil register. At [38] the judge noted the various pieces of information available to the appellant and with which he could obtain a replacement CSID. There was no evidence before the Tribunal that this would not be possible. Further, even though there was criticism of the proof of residence document, that was because of the additional note purporting to record the manner of the father's death. This was still a document that could be relied on by the appellant to assist in redocumentation. In the premises, considering the decision in the round, I am satisfied that the findings at [38] and [39] were open to the judge on the Country Guidance, the evidence before the Tribunal, and have been adequately supported by cogent reasoning.

9. In any event, in the alternative as set out at [38] of the decision, based on the power of attorney, the judge also found that the appellant's identity documents were with a relative with the power of attorney and they could be sent to him in the UK. The grounds of appeal do not challenge this finding. The judge also found he remained in contact with family in Iraq. It follows that even if the judge was in error as to the ability to redocument himself, the judge was entitled to conclude that the originals would be available to him on request. In the premises, no material error of law is disclosed by the first ground.

10. In relation to Ground 2, Judge Perkins is correct to point out that the First-tier Tribunal had no basis to criticism the format or wording of the death certificate without a comparator. The grounds go further and suggest that only an expert could take such a view. However, as Judge Perkins suggested, the judge gave cogent and lawful reasoning for being "unimpressed" by the death certificate. However, I am not satisfied, even if this aspect of the decision is an error of law, that it is material. That is because the judge also addressed the issue in the alternative. The judge noted at [30] of the impugned decision that in 2013 Judge Gordon found that the appellant would not be of adverse interest in Iraq after 2012. The judge was obliged to take this earlier finding as her starting point but observed that there was no evidence before her to displace those earlier findings. At [30] the judge pointed out that the whole asylum claim was based on one incident from 2007 when the appellant and two friends were approached, threatened, and an attempt was made by a 'tiny' terrorist group to recruit him. Judge Meyler made the obvious point that if he would have been of no adverse interest on return in 2012, as was found by Judge Gordon, this "applies with even greater force in 2020. I therefore find that the fresh evidence before me is not capable of displacing the findings of Immigration Judge Gordon in her decision dated 11 January 2013." This effectively repeated the earlier finding at

[28] of the decision where the judge stated, "I concur that there is now even less basis to belief that the tiny group would have an ongoing adverse interest in the appellant 13 years after the initial incident or that they have the capacity to maintain such an interest." The grounds do not challenge the judge's refusal at [29] to accept the claim that there were ongoing calls from terrorists. Effectively, whatever view was taken of the death certificate, it was not material to the outcome of the appeal as the conclusion that there would now be no adverse interest in the appellant is entirely sustainable even if the death certificate is genuine or reliable and the manner or cause of the father's death is taken as claimed. In the premises, no material error arises in the second ground.

11. In the circumstances and for the reasons set out above, I find no material error of law in the decision of the First-tier Tribunal so that it must be set aside.

Decision

The appeal of the appellant to the Upper Tribunal is dismissed.

The decision of the First-tier Tribunal stands and the appeal remains dismissed on all grounds.

I make no order for costs.

Signed: *DMW Pickup*

Upper Tribunal Judge Pickup

Date: 13 April 2021

Anonymity Direction

I am satisfied, having had regard to the guidance in the Presidential Guidance Note No 1 of 2013: Anonymity Orders, that it would be appropriate to make an order in accordance with Rules 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 in the following terms:

> "*Unless and until a tribunal or court directs otherwise, the appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify him or any member of his family. This direction applies to, amongst others, both the appellant and the respondent. Failure to comply with this direction could lead to contempt of court proceedings.*"

Signed: *DMW Pickup*

Upper Tribunal Judge Pickup

Date: 13 April 2021