

Immigration and
Refugee Board of Canada

**Refugee Protection
Division**



Commission de l'immigration
et du statut de réfugié du Canada

**Section de la protection des
réfugiés**

RPD
File No. / N° de dossier de la SPR : TB9-08037

Private Proceeding / Huis clos

Reasons and Decision – Motifs et Décision

Claimant(s)	XXXX XXXX XXXX XXXX XXXX	Demandeur(e)(s) d'asile
Date(s) of Hearing	March 26, 2021	Date(s) de l'audience
Place of Hearing	Toronto, Ontario	Lieu de l'audience
Date of Decision and reasons	April 16, 2021	Date de la décision et des motifs
Panel	K. GIBSON	Tribunal
Counsel for the Claimant(s)	David P Yerzy	Conseil(s) du (de la/des) demandeur(e)(s) d'asile
Designated Representative(s)	N/A	Représentant(e)(s) désigné(e)(s)
Counsel for the Minister	N/A	Conseil du (de la) ministre

2021 CanLII 152478 (CA IRB)

REASONS FOR DECISION

[1] XXXX XXXX XXXX XXXX, the claimant, seeks refugee protection pursuant to s. 96 and ss. 97(1) of the *Immigration and Refugee Protection Act* (IRPA).¹

ALLEGATIONS

[2] The claimant's allegations are fully set out in his Basis of Claim (BOC) form and a BOC amendment.² In summary, the claimant is a XXXX-year-old man originally from Baghdad. He alleges to be a Sunni Muslim. He further alleges a fear of persecution at the hands of his former brother-in-law, XXXX XXXX XXXX, whom the claimant alleges is a Shia law enforcement officer in Baghdad, on the basis of the claimant's support for his sister when she left the marriage with this brother-in-law. He further alleges a fear of the authorities in Iraq more generally, on the basis of his former brother-in-law's government connections and on the basis of false charges issued against the claimant in Iraq by his former brother-in-law. The claimant also alleges a fear of Shia militias in Iraq, given his former brother-in-law's alleged connections with such militias. Lastly, the claimant alleges a fear of persecution from religious extremists in Iraq on the basis of his profession and profile as a well-known XXXXof XXXX XXXX.

[3] The claimant alleges that he relocated from Iraq to Jordan in 2000 or 2001 for his XXXX career. He alleges that he last travelled to Iraq for XXXX in 2015 and 2016.

[4] In XXXX 2018, the claimant alleges he travelled from the United Arab Emirates to the United States (U.S.) on a visitor visa. On XXXX XXXX XXXX 2019, the claimant travelled from the U.S. to Canada, where he made his refugee claim.

DETERMINATION

[5] The panel finds that the claimant is neither a Convention refugee nor a person in need of protection for the following reasons.

ANALYSIS

Identity

[6] The claimant did not present an entire passport in support of his claim. He testified that he lost his Iraqi passport in California in XXXX 2018. He provided a copy of the photo page of his Republic of Iraq passport at the time of his refugee claim, along with a copy of his Canadian visitor visa.³ The claimant also presented a copy of the front and back of his Iraqi national identity card with translation into English in his supporting documents.⁴

[7] The panel accepts the claimant's personal identity and his Iraqi citizenship on the basis of these documents provided.

Exclusion under Article 1F(b)

[8] In his BOC form, the claimant stated that he was unable to obtain a new Iraqi passport after losing his passport while travelling in the U.S. because his former brother-in-law "had started criminal actions against" him "by international police" based on the allegation that the claimant kidnapped his nephews.⁵ He further stated that he would face jail in Iraq because these actions were reported to Interpol.⁶ A supporting letter provided by the claimant from a lawyer in Iraq states that there was an Interpol red alert on the claimant and that there was an arrest warrant for him in Iraq on the basis of Article "A.Q.383" of the Iraqi Disciplinary Act.⁷ A court sentencing document from Baghdad indicates that the claimant had been convicted of this offense in 2017.⁸ The panel considered whether exclusion under Article 1F(b) was applicable in this claim. However, as the panel finds the claimant's evidence as to the criminal charges against him in Iraq are not credible, the panel further finds that there is no basis for exclusion in this claim.

Credibility

[9] Based on the following findings regarding the claimant's credibility, the panel finds that the claimant was not credible regarding core elements of the claim before the panel. The panel is aware of the difficulties that may be faced by the claimants in establishing their claims. These difficulties may include the setting of the hearing room and the stress inherent in responding to

oral questions through an interpreter. The panel has carefully considered the claimant's age, education, and medical information as well as their employment and life experiences.

[10] When a witness swears that certain facts are true, this creates a presumption that those facts are indeed true unless there is a valid reason to doubt their veracity. The determination regarding whether or not evidence is credible is made on a balance of probabilities. The panel has considered the testimony in this case and finds that, based on the claimant's omissions and inconsistencies, the presumption of credibility has been rebutted and that the claimant is not a credible witness.

The claimant's evidence about threats from his alleged persecutor contained material omissions and inconsistencies

[11] At the hearing, the claimant testified that when his sister and mother and other family members arrived in Canada in XXXX 2017, his former brother-in-law, XXXX XXXX started threatening both him and his brother XXXX XXXX XXXX who is also in Canada. He testified that he found out that XXXX was threatening both him and his brother XXXX at the same time, and that XXXX shared these threats through friends that the claimant sent to talk to him and through lawyers he asked to look into the situation.

[12] There is no mention in the claimant's BOC form that when XXXX threatened the claimant he also threatened XXXX. The panel noted this at the hearing and asked the claimant if he could explain. The claimant testified that at that time he had been thinking that this thing is only relevant to his case to mention that and he had not thought about his brother.

[13] The panel then noted that the claimant provided a number of supporting documents including letters from different people and asked the claimant if he asked his brother XXXX for a letter to support his refugee claim. The claimant testified "No" and that he had not thought of that. The panel notes that the claimant also testified that he was living with his brother XXXX and had been since 2019.

[14] The claimant signed his BOC form indicating that its contents were complete, true and correct. The BOC form is clear in instructing claimants to **"INCLUDE EVERYTHING THAT IS IMPORTANT FOR YOUR CLAIM. INCLUDE DATES, NAMES AND PLACES**

WHEREVER POSSIBLE” (emphasis in the original).⁹ The claimant amended his original BOC form two months after the first form was executed and this information was not included in the amendment. The claimant has 18 years of education including six years of post-secondary studies and has extensive international travel experience. He is, therefore, not an unsophisticated individual. He had the assistance of legal counsel when preparing his BOC, and at all material times in putting forward his claim.¹⁰

[15] The panel finds the claimant’s explanation for this omission is not satisfactory. The claimant alleges that his brother XXXX was being threatened by the same agent of persecution, at the same time as the claimant and for the very same reasons. It is reasonable to expect that had XXXX threatened both the claimant and his brother in an integrated manner, as the claimant testified, that this would have been mentioned in the claimant’s BOC. Moreover, the panel finds that information as to a close family member who is threatened in conjunction with the claimant is central to the claimant allegations, and its omission from his BOC as such is material.

[16] The panel therefore finds the claimant failed to establish that XXXX ever threatened XXXX as alleged, and that this finding undermines the claimant’s credibility generally and that of his allegations as to threats received from XXXX.

[17] The panel further finds that the claimant’s failure to provide a letter from XXXX or to even attempt to obtain one for his refugee claim is a credibility concern. Given the panel’s credibility concerns with regards to the claimant’s evidence that XXXX was also threatened by XXXX, documentary evidence from XXXX regarding these incidents would be helpful in the assessment of the claimant’s credibility. The claimant, as noted, is well educated and relatively sophisticated. He had the assistance of counsel in putting forward his refugee claim. He provided numerous other documents in support of his refugee claim, including a support letter from his sister, the former wife of XXXX, who is also residing in Canada.¹¹ There is no indication the claimant would not have been able to obtain such a letter, but rather that there would have been few if any barriers to doing so given that XXXX and the claimant live together and have done so for some time. The panel finds the claimant’s failure to provide or even attempt to obtain such documentary evidence to be a further credibility concern that detracts from his credibility and that of his allegations.

[18] The claimant stated in his BOC form that XXXX “contacted me in several occasions by phone telling me that I will be harmed if a return to Iraq because of the separation with my sister.”¹² At the hearing, the panel asked the claimant if XXXX ever threatened the claimant directly. The claimant testified that XXXX threatened him through his brother XXXX in two phone calls that took place in 2019. He testified that the first call was at the start of XXXX XXXX XXXX or XXXX XXXX and the second call took place three months later, and that XXXX told the claimant about both of these calls, for the first call immediately and for the second call a few days later.

[19] The panel noted that there was no amendment or update to the claimant’s BOC form to include information about threats from XXXX delivered in two phone calls with XXXX in 2019 and asked the claimant if he could explain. The claimant’s testimony was largely nonresponsive to the panel’s question. He repeated his testimony that the threats were through XXXX XXXXthatXXXX XXXX is safe in Canada because he is going to get citizenship and nothing threatens him here, that XXXX only contacted XXXX for the claimant’s sake. He further testified that he only mentioned the things relevant to his story and he stated all his story, and at that time he hadn’t thought of that. The claimant also testified that sometimes in such circumstances someone would be confused or overwhelmed so not all the ideas would get into his mind to state them down.

[20] The panel finds the claimant’s explanation is not sufficient, as it did not address the panel’s question in any meaningful way. The claimant had already provided one amendment to his original BOC form. He had the assistance of counsel. There is no indication anywhere in his supporting documents of any threats via telephone from XXXX in 2019. RPD Rule 9 sets out the procedures to follow and the time limit for making amendments to the BOC form. The standard appendix to the BOC, which contains instructions on completing the BOC, also indicates that if claimants’ information changes or they wish to add information they may do so.¹³ There is no persuasive evidence that the claimant could not have made this amendment prior to the hearing.

[21] Moreover, the panel finds that information as to 2019 threats against the claimant and his brother XXXX, delivered from XXXXto XXXX, are of central relevance to the claimant’s refugee claim, as they constitute evidence of continued threat expressed toward and interest in the

claimant from his alleged agent of persecution, and that the omission of this information from his BOC is therefore material. The panel therefore finds that the claimant failed to establish that there were any such threats from XXXX in 2019 as alleged, and that this omission further diminishes the claimant's credibility and that of his allegations.

[22] The claimant also testified at the hearing that XXXX never threatened him directly, and that he didn't have direct contact with XXXX, that he always uses some people like his brother to have contact with XXXX. The panel asked the claimant if XXXX ever called him on the phone and threatened him, specifically that the claimant will be harmed if he went back to Iraq. The claimant testified directly never because he had not contacted XXXX and the claimant doesn't talk to XXXX and won't talk to him directly because he is a barbarian. The panel noted the BOC passage in which the claimant states that XXXX "contacted me in several occasions by phone telling me that I will be harmed if a return to Iraq because of the separation with my sister."¹⁴ It asked the claimant to explain why his BOC states that XXXX contacted him on several occasions and threatened him. The claimant testified that what he meant was that the contact was through these people and he had some false arrest order issued against him, and couldn't he consider that a direct threat to him.

[23] The panel agrees that threats issued from XXXX against the claimant and his brother over the phone to the brother would reasonably be considered a direct threat. However, the question at issue here is not whether this is a direct threat, but why the claimant's BOC states that his alleged persecutor called him several times on the phone telling him threats should he return to Iraq. The claimant's BOC form uses the words "me" and "I" multiple times in this sentence, indicating direct contact with the claimant. There is no indication at all in the claimant's BOC that such threats were issued not directly to the claimant but to his brother. The panel therefore finds that the claimant's evidence was internally inconsistent as to whether he received direct threats from XXXX XXXX and that the claimant failed to provide a reasonable explanation for this inconsistency. Moreover, as the inconsistent evidence pertains to the very core of the claimant's allegations, threats from XXXX to kill the claimant if he returned to Iraq, the panel finds that this is a material inconsistency.

[24] Given the above, the panel finds that the claimant failed to establish that there were any direct threats from XXXX to the claimant, and that this constitutes further support for the panel's finding that no such threats were issued to XXXX either. The panel finds that the claimant's credibility and that of his allegations is further diminished by this inconsistency.

[25] The claimant also testified at the hearing that he asked his friend XXXX to go speak with XXXXinXXXX XXXX 2018 when he came to know from the Iraqi embassy that he cannot have my lost passport replaced. In later testimony with counsel the claimant testified that this rather took place in XXXX 2019 and that he was mistaken as to the date when testifying about this in questioning from the panel. The claimant testified that at XXXX meeting with XXXX XXXX the latter was continuously threatening him, and that he and XXXX spoke by phone the same day as the meeting. He further testified that XXXX told him that XXXX said he would be after the claimant and he will kill the claimant and the claimant knows what XXXX can do to him.

[26] The claimant also testified that he asked his friend XXXX XXXX XXXX brother, to speak to XXXX and that XXXX did so with a friend named XXXX in XXXX 2020. He testified that he spoke with XXXXand XXXX after the meeting the same day and that they told him that XXXX said at the meeting that XXXX told them that the claimant will remain his enemy and that XXXX has connections on the borders and everywhere in Iraq so whenever the claimant would try to get in Iraq XXXX would be informed, especially as the claimant is a well-known XXXX.

[27] There is no mention in the claimant's BOC that he asked anyone to go speak with XXXX after the problems allegedly arose with the claimant's passport. The panel noted this and asked the claimant if he could explain. The claimant testified that at that time it didn't come to his mind to mention these details.

[28] Even if the panel accepts the claimant's explanation that his initial, repeated testimony that he found out about problems with his passport in XXXX 2018, according to the claimant's explanation and subsequent testimony this meeting took place in XXXX 2019. Thus, according to the claimant's evidence, this alleged meeting between XXXXandXXXX XXXX took place before the claimant's original and amendment BOCs were signed. As this meeting would have taken place very recently at the time of his execution of his BOC and BOC amendment, given the seriousness of the threats allegedly issued at this meeting, given that they are central to the

claimant's allegations, and given the claimant's profile and that he had the assistance of counsel, as noted above, the panel finds the claimant's explanation that this information did not come to his mind to be unsatisfactory. It is reasonable to expect that if the claimant dispatched a friend in Iraq to speak to XXXX just before making a refugee claim, and that XXXX allegedly again threatened to kill the claimant, that the claimant would have mentioned this in his BOC forms. Considering the centrality of such information to his refugee claim, the panel finds also that this is a material omission.

[29] Given all the above, the panel finds that the claimant failed to establish that his allegations regarding XXXXandXXXX XXXX meeting with XXXX occurred as alleged. In weighing all of the panel's above findings, considered together, the panel finds that the claimant failed to establish that he was ever threatened by XXXX as alleged.

[30] In so finding, the panel notes that the claimant provided emails from XXXXand XXXX in support of his claim.¹⁵ The emails are typed in Arabic and were sent on XXXX XXXXand XXXX XXXX 2021. There is no contact or identifying information for XXXXand XXXX in the emails, nor are there any identity documents attached. The email from XXXX is a Yahoo email account: XXXX XXXX XXXX XXXX@yahoo.com. The email account for the email from XXXX is not listed. The panel finds that email addresses from yahoo can be obtained by anyone, using any name they choose. The names and email addresses attached to these emails are therefore not a reliable indicator of who actually sent these emails. Given the panel's credibility findings in this claim and the lack of contact and identification information for XXXXand XXXX, the panel finds these emails are not reliable and assigns them no weight.

The claimant's evidence contained other material inconsistencies

[31] The claimant disclosed a court sentencing document from the Rusafa Offenses Court in Baghdad dated XXXX XXXX XXXX 2017 naming "XXXX XXXX XXXX" as the plaintiff and sentencing XXXX XXXX XXXX and the claimant in absentia to one year of imprisonment for violating s. 1/383 of the Punishment Act.¹⁶ The claimant testified that he obtained this document from his uncle's wife who works at the XXXX XXXX He testified that he had only a photograph of the documents as his relative could get only this.

[32] The claimant also testified at the hearing that there were fabricated charges against him in Iraq for kidnapping his sister's children that were initiated by XXXX. He initially testified that he learned of these charges in XXXX 2018 after he had problems obtaining a new Iraqi passport while in the United States, but later during questioning by counsel stated that he was mistaken giving this date, and that it was actually XXXX 2019 when he learned of these charges, after losing his passport in XXXX 2018.

[33] By either date, according to his own evidence, the claimant made his refugee claim in Canada after allegedly learning of the charges against him in Iraq. At the hearing, the panel noted that in the claimant's Schedule A form at Question 6(b), which the claimant signed on XXXX XXXX XXXX 2019, the claimant answered "No" when asked have you ever "been convicted of, or are you currently charged with, on trial for, or party to a crime or offence, or subject of any criminal proceedings in any other country or territory?" The panel then asked the claimant if he could explain. The claimant testified he didn't know, that because he had not committed anything so for that he wrote down "No".

[34] The panel is cognizant of Federal Court cautions with respect to evidence provided by claimants at the Port of Entry. However, the Schedule A and other forms done at the initiation of his refugee claim were completed on XXXX XXXX XXXX 2019, nine days after the claimant travelled from the U.S. into Canada.¹⁷ As noted above the claimant is well educated and relatively sophisticated and has travelled extensively and resided in countries other than Pakistan for several years in total. Moreover, the claimant had his Schedule A for reference in preparing his claim, which he did with the assistance of counsel. He made no mention in his BOC form that he had provided inaccurate information in his Schedule A form, despite the centrality of the issue of charges against him. He did mention in his BOC form that he speaks English, in addition to Punjabi and Urdu.¹⁸ The claimant did not mention providing inaccurate information in his Schedule A form until question on the inconsistency by the panel. For these reasons, the panel finds that the Federal Court cautions might explain why the claimant did not initially disclose his belief that he had charges against him, but do not explain why he otherwise never acknowledged the inconsistency until confronted with it by the panel.

[35] The panel has found that the claimant's evidence regarding threats from XXXX is not credible. Given this finding, and that the claimant provided inconsistent evidence as to whether he believed he faced charges in Iraq, and did not provide a reasonable explanation for this inconsistency, the panel finds there is insufficient persuasive evidence to indicate there are any criminal proceedings against the claimant in Iraq as alleged. The panel takes additional negative inference against the claimant's credibility and that of his allegations.

Risk as a Sunni

[36] The objective evidence before the panel includes numerous reports in the National Documentation Package (NDP) for Iraq as well as information provided by the claimant.¹⁹ The objective evidence does not establish that the claimant faces more than a mere possibility of risk in Iraq from Shia militias based solely on his religion as a Sunni.

[37] The only evidence the claimant provided regarding his Sunni religious identity is his oral and written testimony. The panel is concerned by the claimant's failure to provide, or to make any attempt to provide, reasonably available documents to support this allegation that is at the very core of his claim, such as a letter from family members, with whom he remains in contact. However, in the absence of persuasive evidence to the contrary, the panel accepts that the claimant is a Sunni Muslim. The panel further finds the claimant would not face a serious possibility of harm in Iraq on this basis.

[38] At least 95 percent of the population in Iraq, numbering more than 40 million people in total, is Muslim; Sunnis constitute 29-34% of that population.²⁰ Recent country documentation suggests that Sunni identity alone is not sufficient to find someone faces serious harm in Baghdad:

The Upper Tribunal, in the Country Guidance case of BA (Returns to Baghdad) Iraq CG [2017] UKUT 18 (IAC), heard on 24-25 August 2016 and promulgated on 23 January 2017, found:

‘Sectarian violence has increased since the withdrawal of US-led coalition forces in 2012, but is not at the levels seen in 2006-2007. A Shia dominated government is supported by Shia militias in Baghdad. The evidence indicates that Sunni men are more likely to be targeted as suspected supporters of Sunni extremist groups such

as ISIL [Daesh]. However, Sunni identity alone is not sufficient to give rise to a real risk of serious harm' (paragraph 107, (v)).

'Individual characteristics, which do not in themselves create a real risk of serious harm on return to Baghdad might amount to a real risk for the purpose of the Refugee Convention, Article 15(c) of the Qualification Directive or Article 3 of the ECHR [European Convention on Human Rights] if assessed on a cumulative basis. The assessment will depend on the facts of each case' (paragraph 107 (vi)).²¹

[39] A similar sentiment is found in another recent document from the objective evidence on

Iraq:

Sunnis

After the removal of Saddam Hussein and the (Sunni-dominated) Ba'ath Party from government, many Sunnis felt marginalised. This was exacerbated by the perception among the majority Shi'a population that the Sunni community was associated with ISIL, and by the government's inability to assist Sunnis attempting to flee ISIL. While the government has worked hard to protect civilians in the fight against ISIL, it has at times failed to respond firmly to acts of retribution against Sunnis by the Iraqi Security Forces (ISF) or the PMF. These factors have intensified tensions between Sunni and Shi'a communities in Iraq. Sunnis, including IDPs, continue to report that PMF groups harass them, accuse them of supporting ISIL and physically harm them. Sunnis report similar behaviour towards them, although to a lesser extent, by the ISF in some areas. The US State Department and international human rights groups report government aligned forces targeting Sunni males trying to flee ISIL-controlled areas, and preventing Sunnis from leaving and entering government-controlled areas. PMF-linked militia groups have looted and destroyed Sunni-owned properties following the expulsion of ISIL and, in some areas, prevented displaced Sunnis from returning to their homes. Outside ISIL-controlled areas, Sunnis have faced harassment and discrimination in the form of more intrusive inspections at checkpoints, and the provision of poorer quality services in Sunni areas.

DFAT assesses that, outside areas recently controlled by ISIL, Sunnis face a low risk of societal violence on the basis of their religion. DFAT assesses that Sunnis face a moderate risk of official and societal discrimination in areas where they are a minority. The risk of discrimination varies according to an individual's local influence and connections.²²

[40] In considering all the above, the panel finds that simply being Sunni in Baghdad is likely to lead to discrimination and harassment, but violence against Sunnis is not so widespread that the claimant would face more than a mere possibility of harm should he return to Iraq.

Risk as a Sunni XXXX with a public profile

[41] The claimant also alleges he is a well-known XXXX of XXXX XXXX and that he faces a risk in Iraq on this basis. The claimant provided documents to support this allegation including a screenshot of the claimant's YouTube page,²³ indicating that a video posted called "XXXX XXXX" had more than one million views, and of his Instagram account, indicating he has 319,000 followers.²⁴

[42] The panel accepts on the basis of these supporting documents alone that the claimant works as a XXXX and that he has a public profile as such. The panel finds that it is not established in the documents provided in what country or countries the YouTube views took place or where the claimant's Instagram followers are located. While the panel finds the claimant has an elevated profile as a XXXX, it finds it more likely that not all of these views and follows were for Iraq alone given the very international nature of the claimant's career to date. The panel nonetheless accepts that the claimant has an elevated profile based on his XXXX career.

[43] At the beginning of the hearing, the panel asked the claimant two times what he fears in Iraq and he testified about his former brother-in-law XXXX and Shia militias affiliated to XXXX. The claimant did not mention fear of religious extremist groups on the basis of his profession as a XXXX.

[44] Later in the hearing, during questioning by counsel, the claimant testified that as a well-known XXXX it would be very difficult for him to live in Iraq because either he will be kidnapped for ransom or religious groups will kill him because these groups are hardliners, and they believe what he does as a XXXX is a sin and they would not accept such professions. The claimant also testified that so many well-known figures like journalists, singers and actors have been killed in Iraq.

[45] The panel noted that the claimant did not mention fear of religious extremist groups on the basis of his career when asked by the panel whom he fears in Iraq at the beginning of the hearing and asked the claimant if he could explain. The claimant testified because he has a specific or particular problem against him, a person who is working against him with the militias that he is connected with and he has been targeted by name. He further testified that the issues related to

hardline religious groups and how they perceive artists in Iraq this is well known. The claimant also testified that there are other things he has concerns about but the main issue he is really fearing is his personal problem because this problem has actually impacted him, and they stripped his passport from him.

[46] There is also no mention of any fears in Iraq because of his career as a XXXX in the claimant's BOC. The panel noted this omission at the hearing and asked the claimant if he could explain. The claimant testified because his true problem and true challenge are his problems with his brother-in-law targeting him, this is his main issue so why should he state other things other than the main thing he is concerned about.

[47] The panel finds the claimant failed to mention any fears in Iraq on the basis of his career as a XXXX from his BOC or when asked initially as to what he fears in Iraq at the hearing by the panel. Given that the claimant testified as to fears of serious harm on this basis – kidnapping for ransom or being killed by religious groups – should he return to Iraq and given that he has not engaged in any other form of work in the past 20 years, including while in Canada, and given his elevated profile as a result, the panel finds this is a material omission from his BOC. The panel also finds this to be a material inconsistency in his testimony.

[48] The panel also does not find the claimant's explanations for the inconsistent testimony or the BOC omission to be satisfactory. While his primary allegations may revolve around his former brother-in-law, the claimant nonetheless raised allegations of serious fears of harm with respect to religious extremist groups. BOC forms are clear in instructing claimants to include everything that is important for their claim. The claimant discussed his XXXX career in his BOC narrative in some detail. It is reasonable to expect that if he believed this career would also put him at risk in Iraq should he return that he would have mentioned this somewhere in his BOC and that he would have mentioned this when asked about what he fears in Iraq by the panel.

[49] The panel therefore finds that the omission and the inconsistent testimony diminishes the claimant's subjective fear regarding risk to him in Iraq on the basis of his XXXX career and takes further negative inference against the claimant's credibility and that of his allegations.

[50] The claimant testified that he went to Iraq three or four times for XXXX after relocating to Jordan, and that when he travelled for these XXXX the company or the institution that organized the XXXX would take him from the airport by armoured vehicle so that he would be protected all the time until he reached the hotel where the XXXX would be held, where he would remain, and then he would go back in the same manner. The claimant also testified that the hotels where these XXXX were held would announce the XXXX on Facebook and using other advertising means.

[51] The panel notes that in the limited passport information available in this claim, the pages found in his Canadian visitor visa application, there are stamps that indicate the claimant travelled to different parts of Iraq at least four times in 2015.²⁵

[52] The panel also considered the objective country evidence for Iraq. A 2018 report from the Danish Immigration Service on the Kurdistan Region of Iraq indicates that an Iranian singer was badly beaten there several times in 2015 due to his feminine appearance.²⁶ There are reports of rap music being considered by one Shia militia as religiously forbidden and one Iraqi rap artist receiving threats from this militia.²⁷ There are reports of Black Iraqis and people from the Roma community in Iraq facing restrictions on their ability to play music since 2003.²⁸ Other reports indicate there is some risk to people who follow an “emo” subculture that is associated with the LGBTQ community in Iraq.

[53] There is no indication that the claimant has ever been considered as having a feminine or non-conforming male appearance by Iraqi standards, nor is there any indication that he XXXX XXXX XXXX. The evidence given by the claimant is that he XXXX XXXX XXXX in Arabic. The claimant is also neither a Black Iraqi nor is he from the Roma community. There is no indication that the claimant is or would be associated with the “emo” subculture in Iraq.

[54] Thus, the objective evidence found in the National Documentation Package for Iraq, which extensively documents the bases on which individuals are targeted in Iraq at present, does not support the claimant’s contention that he would face a risk in Iraq on the basis of being a XXXXof XXXX XXXX in Arabic with a public profile.

[55] The panel also considered the country documents provided by the claimant.²⁹ One 2017 media report from the New York Post details the murder of a male model whose friends allege

that he was murdered for his blond hair, tight pants, good looks, and friendships with female actors. There is no indication in this article who these friends are or how they obtained this information. No information from Iraqi authorities or other official sources is included as to the motive and the perpetrator(s) of this offense. The panel finds there is insufficient indication of reliable information in this source, a tabloid newspaper, and that the claimant's situation is distinguishable from the individual killed in this story as he is not a model, is not blond, gave no evidence of friendships with female actors or of wearing tight pants. Another media article from October 2018 from the gulfnews.com documents the murder of a teenage boy who was known on social media in Iraq for posting pictures challenging gender stereotypes with long hair and different filters. The panel finds that the claimant's situation is again distinguishable from the individual in this media account, as he put forward no persuasive evidence that he would be similarly considered as challenging gender stereotypes in Iraq. Another October 2018 media article from cosmopolitan.com on the killing of a female beauty pageant winner is similarly distinguishable from the claimant's own circumstances.

[56] The claimant also provided a November 2006 media article from freemuse.org that speaks to the killing of a singer earlier that month. This article quotes the Iraqi Artist Association as saying that nearly 80 percent of singers from the Saddam era had fled Iraq and 75 singers had been killed since the U.S. invasion of Iraq in 2003. The panel finds that this article is significantly outdated at present, having been written at the height of the sectarian tensions in Iraq, a situation that has evolved significantly in the intervening years. The objective evidence for Iraq does not indicate the same type of risk remains in place at present. Lastly, the claimant provided a January 2015 article from mcclatchy.dc.com about a young Sunni musician from Baghdad who made an asylum claim in the U.S. The article is vague as to when the young man fled Iraq but appears to indicate that he had obtained his U.S. visa the prior April. The article states that militiamen in Iraq “have a well-documented penchant for silencing musicians and other artists whose work they deem forbidden under Islamic law” but provides no source for this statement. The panel finds that the objective evidence establishes that the situation in Iraq has evolved since 2014 as well, from a time when the Islamic State held territory in Iraq to the present, where Islamic State holds no land and engages in sporadic attacks in certain parts of the country. The panel finds that while the young musician in this article may have experienced the events described, that this is not reflected

in the NDP, nor is it sufficient to establish more than a mere risk to the claimant in Iraq on the basis of his XXXX XXXX.

[57] Based on all the above, the panel finds that the claimant's subjective fear of return to Iraq on the basis of his XXXX career and profile is diminished by inconsistencies and omissions. The panel also finds that objective evidence for Iraq does not establish that the claimant, as a Sunni XXXX XXXX XXXX would face more than a mere possibility of risk in Iraq at present should he return.

Other supporting documents

[58] The claimant provided other documents in support of his claim, including an affidavit from his sister and documents regarding her ex-husband, the claimant's former brother-in-law XXXX. The claimant also provided documents regarding his lost Iraqi passport. The panel, having considered these documents carefully, finds they do not suffice to reach a different decision.

[59] The claimant provided pictures of his sister XXXX and her ex-husband, her ex-husband/XXXX in a police uniform,³⁰ a copy of XXXX identity card,³¹ his sister's medical form from Canada in which she is quoted as having disclosed past domestic violence from her ex-husband,³² the birth certificate and Iraqi nationality certificate of his sister's child listing her ex-husband as the child's father,³³ a Jordanian court document indicating XXXX sought a divorce from XXXX³⁴ and an affidavit from his sister.³⁵ The panel accepts on the basis of these documents that the claimant's sister XXXX was married to a man called XXXX XXXX that XXXX worked at some time as a police officer and that his sister alleges domestic violence against XXXX prior to their separation.

[60] The affidavit from XXXX was accompanied by an identity document. She was not called as a witness in this claim so the information in her affidavit could not be tested by questioning her. Moreover, the panel finds that the above documents do not address its credibility concerns in this claim, and therefore do not overcome them.

[61] The claimant also provided a San Diego police report dated XXXX XXXX XXXX 2018 indicating the claimant lost his passport three days prior,³⁶ a passport application from Los

Angeles³⁷ and a letter from the Consulate Section of the Iraqi Embassy in Ottawa dated XXXX XXXX XXXX 2019.³⁸

[62] The panel finds these documents establish only that the claimant lost his Iraqi passport in California in XXXX 2018 and applied for a replacement passport shortly thereafter. There is no indication in any of these documents that the claimant was told he would not be able to receive a new Iraqi passport or otherwise corroborating his other allegations.

[63] The claimant also provided a letter from a lawyer in Iraq³⁹ and a court sentencing document from Baghdad in support of his claim.⁴⁰ These documents also do not address the panel's credibility findings discussed above. The panel therefore finds they are not sufficient on their own to overcome these findings.

Summary of credibility findings

[64] The panel notes it is the claimant's burden to provide evidence to establish his claim. The panel has found that there were numerous material omissions and inconsistencies in the claimant's evidence. The panel acknowledges that while none of the individual findings on their own are determinative, cumulatively they lead the panel to find that the claimant's account is not credible, and that he therefore has failed to establish that he came to the attention of anyone in Iraq and does not face any criminal proceedings in Iraq.

[65] The panel has also considered the claimant's residual profile as a Sunni and as a XXXX of XXXX XXXX and finds that the claimant would not face more than a mere possibility of persecution should he return to Baghdad on these bases.

CONCLUSION

[66] For all of the reasons outlined herein, based on the totality of the evidence, the panel finds that the claimant would not face a serious possibility of persecution on a Convention ground, and that, on a balance of probabilities, he would not personally be subjected to danger of torture or to a risk to life or a risk of cruel and unusual treatment or punishment upon return to Iraq.

[67] Therefore, this claim is rejected.

(signed)

K. Gibson

K. GIBSON

April 16, 2021

Date

¹ *Immigration and Refugee Protection Act*, (IRPA), S.C. 2001, c.27, as amended, sections 96 and 97(1).

² Exhibits 2, 4.

³ Exhibit 1.

⁴ Exhibit 8.

⁵ Exhibit 2, paras 6-8.

⁶ *Ibid.*, para 9.

⁷ Exhibit 7, pp. 1-3.

⁸ *Ibid.*, pp. 4-6.

⁹ Exhibit 2, p. 2.

¹⁰ *Ibid.*, q. 9(a).

¹¹ Exhibit 7, pp. 10-11.

¹² Exhibit 4, narrative para 5.

¹³ Standard BOC appendix as of October 2019, under “Making Changes”.

¹⁴ Exhibit 4, narrative para 5.

¹⁵ Exhibit 7, pp. 40-43.

¹⁶ *Ibid.*, pp. 5-6.

¹⁷ Exhibit 1, Schedule 12, q. 9, notice of referral document “Effective address date”.

¹⁸ Exhibit 2, q. 1(g).

¹⁹ Exhibit 7.

²⁰ Exhibit 3, National Documentation Package (NDP) for Iraq (October 30, 2020 version), item 1.3.

²¹ *Ibid.*, item 1.20.

²² *Ibid.*, item 1.19.

²³ Exhibit 7, p. 60.

²⁴ *Ibid.*, p. 61.

²⁵ Exhibit 6.

²⁶ Exhibit 3, NDP for Iraq, item 1.11.

²⁷ *Ibid.*

²⁸ *Ibid.*, items 1.19, 2.4, 13.2.

²⁹ Exhibit 7, pp. 62-72.

³⁰ *Ibid.*, pp. 12-15

³¹ *Ibid.*, pp. 16-17.

³² *Ibid.*, p. 18.

³³ *Ibid.*, pp. 35-37.

³⁴ *Ibid.*, pp. 27-29.

³⁵ *Ibid.*, pp. 10-11.

³⁶ *Ibid.*, p. 46.

³⁷ *Ibid.*, p. 52.

³⁸ Exhibit 1.

³⁹ Exhibit 7, pp. 1-3.

⁴⁰ *Ibid.*, pp. 4-6.