



**Upper Tribunal  
(Immigration and Asylum Chamber)**

Appeal Number: AA/00828/2014

**THE IMMIGRATION ACTS**

**Heard at Manchester  
On 12 September 2014**

**Determination Sent  
On 13 October 2014**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE MCCLURE**

**Between**

**SGH  
(ANONYMITY DIRECTION MADE)**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr Ahmed of UK Law

For the Respondent: Mr Parkinson, Senior Home Office Presenting Officer

**DETERMINATION AND REASONS**

1. The appellant claims to be a citizen of Eritrea. It is the respondent's case that she is a citizen of Ethiopia. The First-tier Tribunal Judge found on the evidence that the appellant was a national Ethiopia.
2. I have considered whether any of the parties to the present proceedings requires the protection of an anonymity direction. The appellant has a

child and the determination herein impinges upon the interest and welfare of that child. In the circumstances to protect the child and her interests I make an anonymity direction. I note that, whilst there is a connected file in relation to the child, the proceedings in respect of the child were ruled as no valid appeal. The child is to be treated as the dependant of her mother, the appellant, and her status determined in line with that of the mother.

3. This is an appeal by the appellant against the determination of First-tier Tribunal Judge Malins promulgated on 18<sup>th</sup> March 2014. By the determination the judge dismissed the appeal against the decision of the respondent dated 22<sup>nd</sup> January 2014 to remove the appellant from the UK after refusing her asylum, humanitarian protection or other relief whereby the appellant would be allowed to remain in the United Kingdom.
4. The judge found that the appellant was an Ethiopian national. The only risk that the appellant had identified was a risk of serious harm or mistreatment constituting persecution in Eritrea.
5. By decision taken on 27 June 2014 leave to appeal was granted to the Upper Tribunal. Thus the case appears before me to determine in the first instance whether or not there is an arguable error of law in the determination.
6. The issues raised in the grounds of appeal are:-
  - a) Contrary to the judge's findings it is asserted that the appellant had told the truth when giving the date upon which she had been deported from Ethiopia to Eritrea. It is claimed that background information indicated that expulsions continued to take place from Ethiopia into 2001 and 2002. The judge's finding that deportations ceased after the "Cessation of Hostilities Agreement" in 2000 was not consistent with the background information.
  - b) It is alleged that the judge's findings with regard to parts of the evidence was speculative and not based on the facts, such as findings as to why the appellant's father had supported Eritrean independence. The judge was also mistaken as to the date upon which the appellant was arrested in Eritrea.
  - c) The judge has failed to take into account evidence that was before the judge that the appellant had approached the Ethiopian embassy and the reply from the embassy.
  - d) The judge's findings on credibility are flawed and unsustainable.
  - e) The judge has failed to consider the case of MO 2010 UKUT 00190, wherein it was found that a failed asylum seeker would on return to Eritrea be forced to perform military service and would on return be at risk.
  - f) The judge has failed to assess the risk to the appellant in Eritrea.

## Factual Background

7. The appellant claims to have been born in Eritrea and to have lived there until 1990. In 1990 together with her parents she moved to live in Ethiopia. The family lived in the Ethiopia until July 2001 when the family were deported from Ethiopia back to Eritrea.
8. In August 2001 the father of the family allegedly went to see his sick mother in Asmara and was never seen again.
9. The appellant claims that she converted to Pentecostal Christianity in August 2001. Initially in interview the appellant was claiming to practice her Pentecostal religion in a house until it was pointed out that the religion was not banned until May 2002. The appellant claims that she was arrested in September 2002 because of her religion.
10. The appellant claims that she was detained at a police station for about a month. Her aunt then secured her release. The appellant claims that she had been raped and that she subsequently gave birth in Sudan.
11. Having been released the appellant was taken in October 2002 to Khartoum in Sudan. She worked there for some 11 years. However she had a dispute with her employers.
12. On 21 October 2013 she left Sudan with her daughter and flew to France. Thereafter they came to the United Kingdom.

## Consideration of the issues

13. Central to a determination of this case is whether the judge's finding that the appellant is a national of Ethiopia is sustainable. If the appellant is an Ethiopian national being returned to Ethiopia, there is no risk to the appellant in Eritrea because she would never be removed there.
14. It is claimed that the judge has failed to take account of evidence of when deportations from Ethiopia ceased. The evidence now presented by the appellant is an extract from the Human Rights Watch, Eritrea/Ethiopia Vol 15 -3(A) January 2003. That indicates 312 people of Eritrea origin were deported from Ethiopian in November 2001 and a further group of 100 people were deported on the 16<sup>th</sup> March 2002.
15. The grounds of appeal further refer to the fact that since December 2000 21,255 persons of Ethiopian origin had been repatriated to their country from Eritrea. First and foremost with regard to that, we are allegedly dealing with repatriations of Eritreans by force to Eritrea from Ethiopia and not Ethiopians from Eritrea to Ethiopia.
16. The evidence that has been submitted identifies two specific instances of persons been deported from Ethiopia backed to Eritrea. At the time of the hearing the judge had background information in the form of the Ethiopia OGN paragraph 3.17.2 which specifically identifies the US State

Department Report 2000 as referring to the fact that the Ethiopian government stopped forcibly deporting Eritreans in June 2000.

17. One has to read with care the conclusion reached by the judge. The judge at paragraph 9.1 (a) concludes that the appellant and her family were not deported as claimed in July 2001. That was not a conclusion that deportations had ceased before that date. The conclusion was that the appellant and her family were not deported on that date. The background information indicates that other deportations took place but those deportations relate to specific numbers on specific dates and do not correspond with the date given by the appellant. In the circumstances the conclusion by the judge is not undermined by the evidence now adduced. The judge has considered the evidence that was before him. The judge was entitled to come to the conclusion that he did on the basis of the evidence presented.
18. With regard to the remainder of the appellant's account the judge has given valid reasons for making adverse findings of credibility. The appellant did state in interview that she had started to practice her religion in a house. It was only when it was pointed out that Pentecostal Christianity was only made illegal sometime after the appellant had joined the religion, that the appellant stated she had practised her religion originally in a church. The judge was entitled to find that the start of a person's commitment to a religious faith would be an important event so significant that one would remember the details of where one was practising one's religion. Those were findings of fact that the judge was entitled to make on the evidence.
19. The judge noted that the appellant spoke Amharic and when asked about the Eritrean currency identified Ethiopian currency instead. Similarly the appellant's claims to have stayed in Sudan but not to speak any Arabic and to being a domestic servant to Nigerians, a Nigerian lady speaking Amharic and her husband speaking English were considered. The judge has given valid reasons for finding that those claims were not credible. In paragraph 9 of the determination the judge has made valid findings of fact based on the evidence. Whilst it does appear that the judge has mistaken the date upon which the appellant was arrested that does not affect the rest of the findings of fact made.
20. It is suggested that the judge has failed to take into account corroborative evidence. Issue has been taken with regard to the judge's treatment of the evidence from the Ethiopian Embassy. It is suggested that the appellant having approached the Ethiopian Embassy, the letter from the Ethiopian Embassy supports the appellant's account that she is not an Ethiopian national. The letter from the Ethiopian Embassy merely states that insufficient evidence has been submitted on the part of the appellant for the Ethiopian Embassy to say that she is a national of Ethiopia. Whilst it is evident that can be taken into account of itself it does not prove that the appellant is not a national of Ethiopia nor is it necessarily corroborative for the appellant's claims.

21. During the course of the hearing before me the appellant's representative sought to argue that there had been an inadequate assessment of the risks to the appellant on return to Eritrea. That seemed to be ignoring the principal point made by the judge that the appellant was not a national of Eritrea. The appellant would therefore be returned to Ethiopia and not to Eritrea. If the judge's findings with regard to the appellant being an Ethiopian national are sound, no issue arises as to an inadequate assessment of the risk in a country of which she is not a national.
22. Taking the determination as a whole the judge has given valid reasons for coming to the conclusions that he did. The judge was entitled on the evidence to come to the conclusions he did and was entitled therefore to conclude that the appellant was a national Ethiopia.
23. In the circumstances there is no material error of law in the determination. I uphold the decision to dismiss this appeal on all grounds.

Signed

Date

Deputy Upper Tribunal Judge McClure

Direction regarding anonymity- rule 45 (4)(i) holds the Asylum and Immigration Tribunal (Procedure) Rules 2005

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

Signed

Date

Deputy Upper Tribunal Judge McClure