



IAC-TH-LW-V1

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

Appeal Number: AA/02360/2014

THE IMMIGRATION ACTS

**Heard at Field House
On 21 October 2014**

**Decision and Reasons
Promulgated
On 7 November 2014**

Before

UPPER TRIBUNAL JUDGE PINKERTON

Between

**MR ABRAHAM SOLOMON
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Miss N Mallick
For the Respondent: Mr C Avery

DECISION AND REASONS

1. The appellant claims to be a citizen of Eritrea with the date of birth of 6 May 1988. The respondent does not accept that he proved “even to the lowest standard of proof” that he is Eritrean and a judge of the First-tier Tribunal came to the same conclusion on appeal against a decision to refuse the appellant asylum.

2. The appellant claimed that if he were returned to Eritrea he would face a real risk of suffering serious harm at the hands of the Eritrean authorities. On appeal the judge found that the appellant is in fact an Ethiopian national and that he had not established that he has a well-founded fear of persecution and that he is not therefore entitled to a grant of asylum.
3. The appellant sought permission to appeal the decision of the judge and this was granted on the basis that it is arguable that the judge's conclusions on the appellant's nationality were "disproportionately based on the appellant's familiarity with the Amharic language".
4. The respondent filed a Rule 24 response opposing the appellant's appeal noting that amongst other things the grounds of appeal state that the judge should have had regard to the fact that the appellant is an Amiche and placed undue weight on the Sprakab (Language Analysis) Report. The respondent pointed out that the judge stated that he had read and considered all the papers before him and had taken "everything in the round" when making his finding that the appellant was Ethiopian. The submission by the respondent is that the judge's findings were open to him on the evidence before him.
5. In her submissions before me Miss Mallick relied on her grounds seeking permission to appeal. In essence these were that the judge erred in law by focusing on the appellant's (un)familiarity with the Tigrinya language rather than focusing on the appellant's nationality which was the primary question agreed between the parties; the judge placed disproportionate weight on the language issue as a result of that error; the judge failed to place sufficient weight on the appellant's evidence as to why he continued to speak Amharic; the judge placed undue weight (without considering in balance the background material) on the Sprakab Report which failed to take into account that the appellant was an Amiche who spoke Amharic, was brought up in Ethiopia, was deported to Assab and that the appellant's wife is from Assab.
6. I do not find that there can be any real quarrel with how the judge came to his conclusions. In paragraph 24 of the determination he stated "An important issue in this appeal, relevant to establishing the appellant's nationality, is his understanding of language; in particular, whether he is a Tigrinya speaker." The judge found that the appellant's answers concerning his inability to speak Tigrinya were inconsistent and the judge then gave examples of how he came to that conclusion. He found that it should be clear to the appellant whether or not he actually speaks Tigrinya and this should not be something about which he is in doubt.
7. The judge took into account the Sprakab Report commissioned by the respondent and concluded that the appellant does not speak Tigrinya. The report was clear in its findings stating that the appellant used and formed words and sentences in a manner typical of Amharic spoken in Ethiopia. The judge concluded that he was not satisfied that the appellant is an Eritrean national and that conclusion is supported by the appellant's lack

of understanding and knowledge of, amongst other things, Eritrean place names, police uniforms and the local church in Assab in which town he was said to have lived for a time.

8. The judge considered the evidence in the round and for good reasons attached no weight to the letter produced from the Eritrean community in Lambeth. There was the appellant's personal statement and oral evidence, but little else to support his contention that he is Eritrean and the judge gave sustainable reasons for finding against him on the matter. It is clear that the appellant and those advising him did not agree with the judge's conclusions and reasons, but the judge has made sustainable findings and because of that he has not made a material error of law and there is no other good reason for the appeal to be reheard.

My Decision

9. It follows from what is said above that the First-tier Tribunal decision is upheld as I announced at the hearing.
10. I note that an anonymity direction was given in the First-tier Tribunal determination. The judge found that in view of the assertions raised by the appellant he should be granted anonymity. I was not addressed on the matter of anonymity, but I consider that such a direction is not required to protect the appellant or anyone else and therefore that direction does not continue.

Signed

Date **6 November 2014**

Upper Tribunal Judge Pinkerton