
**Upper Tribunal**
**(Immigration and Asylum Chamber)** Appeal Number: AA/00214/2015

**THE IMMIGRATION ACTS**

| **Heard at North Shields** | **Determination Promulgated** |
|---|---|
| **On 21 October 2015** | **On 27 October 2015** |
| **Prepared on 21 October 2015** | |

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE JM HOLMES**

**Between**

**M. H.**
**(ANONYMITY DIRECTION)**

Appellant

**And**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**
For the Appellant: Ms Brakaj, Solicitor Iris Law Firm
For the Respondent: Mr Mangion, Home Office Presenting Officer

**DECISION AND REASONS**

1. The Appellant entered the United Kingdom illegally, and on 13 June 2014 the Appellant claimed asylum as a citizen of Sudan. That application was refused on 18 November 2014, and in consequence a removal decision was made in relation to him. Since the Respondent accepted that the Appellant could not be returned in safety to Sudan as a member of the Berti tribe, and thus an individual who would be

perceived to be from Darfur, she proposed instead to remove the Appellant to Ethiopia. He is not a citizen of Ethiopia, but the Respondent took the view that he could reasonably be expected to settle there in safety with his wife and child there, who are Ethiopian citizens.

2. The Appellant appealed to the Tribunal against the removal decision and his appeal was heard on 12 February 2015, and dismissed by decision of Judge Mark-Bell, promulgated on 2 March 2015.

3. The Appellant's application to the First Tier Tribunal for permission to appeal, was refused by Judge Grimmett on 31 March 2015 on the basis it was no more than a disagreement with the Judge's decision. Undaunted the application was renewed to the Upper Tribunal with the same grounds, when it was granted by Deputy Upper Tribunal Judge Chamberlain on 16 July 2015.

4. The Respondent filed a Rule 24 Notice of 17 August 2015 in which she noted the Appellant had expressed the desire to go to Ethiopia to be reunited with his family, and argued that the Judge had given sound reasons for his rejection of the Appellant's claim that he would face a risk of harm in Ethiopia.

5. Thus the matter comes before me.

Error of Law?

6. The Appellant is not, and never has been, stateless. Ms Brakaj accepts that before me. There is therefore no merit in that part of her grounds which complain that he is, and that the Judge should have made such a finding.

7. There was no issue before the Judge over the Appellant's claim that he would face a real risk of harm in the event that he was removed from the UK to Sudan [20]. The sole issue in relation to the asylum/Article 3 appeal was whether he would face a real risk of harm in the event that the Respondent was able to remove him to Ethiopia.

8. Ms Brakaj accepts before me (as her predecessor did before the Judge) that the Judge was not concerned with the practicalities of how the Respondent would effect the proposed removal of the Appellant to Ethiopia, given that he had consistently denied possession of any passport. It might be that he would refuse to co-operate with the Sudanese authorities, or the Ethiopian authorities, or it might be that they would refuse to co-operate with the Respondent, in the process of obtaining a travel document and entry clearance to Ethiopia – but that was not a matter for the Judge, and the matter has not yet been explored by the Respondent because of the pursuit of the appeal. Absent a travel document and entry clearance it is difficult to see how the Appellant could be physically removed from the UK to Ethiopia,

but as the Judge correctly noted the practicalities of that removal were not for him.

9. There was no issue before the Judge over whether the Appellant had married an Ethiopian citizen following a marriage ceremony undertaken in Greece. The Appellant had produced a marriage certificate issued following that ceremony, and the Respondent had not challenged its validity. If the Appellant wished to pursue an argument before the Judge to the effect that this marriage was not one that would be recognised by the Ethiopian authorities once he was in Ethiopia, so that he would then face a risk of removal to Sudan by the Ethiopian authorities, then he needed to articulate clearly the reasons why he suggested this would be their reaction to the marriage at that point, and, provide some credible evidence to support that argument. He did not do so. There is no obvious reason why the Ethiopian authorities would take that stance if they had permitted him entry to their country as the spouse of an Ethiopian citizen. Moreover, as the Judge found, the Appellant's father in law had attended the wedding and was a witness to the marriage, so he could be expected to assist in demonstrating that this was a genuine marriage.

10. I am satisfied that there was no reliable evidence placed before the Judge to suggest that if the Appellant was granted entry clearance as the spouse of an Ethiopian citizen he would thereafter face a real risk of being removed from Ethiopia to Sudan. The argument that such a risk existed was described by the Judge as a mere assertion [28], and there was no error in his doing so. Indeed I would go further and describe it as pure speculation.

11. As the Judge noted, the Appellant had consistently expressed the wish to go to Addis Ababa to join his wife and daughter there. His claim that he faced a risk of harm in Ethiopia from members of his wife's family was obviously a late invention, and it was duly and properly dismissed by the Judge as false in the light of the evidence that his wife's father had been able to attend the wedding in Greece and had stood as witness to it [28]. I note Ms Brakaj has offered no criticism of that aspect of the decision.

12. Accordingly the Appellant has failed to demonstrate any material error of law in the Judge's approach. On the hypothesis that the Appellant could be removed to Ethiopia, he faced no risk of harm once in Ethiopia from either the Ethiopian authorities, or non state agents.

Conclusion

13. I am satisfied that the Appellant has failed to establish any error of law on the Judge's part in the course of his assessment of the evidence. The approach taken by the Judge to the evidence in his

decision does not disclose any error of law that requires that decision to be set aside and remade.

DECISION

The Determination of the First Tier Tribunal which was promulgated on 2 March 2015 contains no error of law in the decision to dismiss the Appellant's appeal which requires that decision to be set aside and remade, and it is accordingly confirmed.

Signed
Deputy Upper Tribunal Judge JM Holmes
Dated 21 October 2015

Direction regarding anonymity – Rule 14 Tribunal Procedure (Upper Tribunal) Rules 2008

Unless and until the Tribunal directs otherwise the Appellant is granted anonymity throughout these proceedings. No report of these proceedings shall directly or indirectly identify him. This direction applies both to the Appellant and to the Respondent. Failure to comply with this direction could lead to proceedings being brought for contempt of court.

Signed
Deputy Upper Tribunal Judge JM Holmes
Dated 21 October 2015