



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

Appeal Number: AA/00682/2015

THE IMMIGRATION ACTS

Heard at Bradford

**Decision and Reasons
Promulgated**

On 16 June 2015

On 18 June 2015

Before

UPPER TRIBUNAL JUDGE D E TAYLOR

Between

GEREMEW GOSAYE GEBRETSADIK

Appellant

And

SECRETARY OF STATE

Respondent

Representation:

For the Appellant: Mr Caswell , Counsel, instructed by Bankfield Heath sols.

For the Respondent: Mr Diwnycz, HOPO.

DETERMINATION AND REASONS

1. This is the appellant's appeal against the decision of Judge Hillis made following a hearing on 27 February 2015 at Bradford.
2. The appellant makes a number of criticisms of the determination in his grounds, in particular that the judge's reasoning process was flawed in concluding the appellant was Ethiopian and not Eritrean, and that he could be returned to Greece; in addition he failed to deal with the refoulement issue adequately.

3. Mr Diwncyz relied on his Rule 24 response but said that he did not resist the application.
4. The grounds have merit.
5. It is not evident where the judge's assertion that the appellant admitted in 2001 that he was Ethiopian comes from. It does not appear in the witness statement nor, according to Mr Diwncyz, the PO's notes of the hearing.
6. The judge accepted that the family could not be returned to Ethiopia, and appears to have based his decision on the family returning to Greece. The appellant's wife has refugee status in the UK as an Eritrean. He did not consider the appellant's argument that his wife's grant of refugee status by the UK was not compatible with her having lawful residence in another EEA state. Moreover he reversed the standard of proof in stating that the appellant had not established that he could not be returned to Greece, when it was for the respondent to do so.
7. For the above reasons, the judge erred in law.
8. Accordingly the decision of Judge Hillis is set aside. It should be remade by a judge other than Judge Hillis at Bradford with all issues at large. It might be prudent for this case to be listed initially for a CMR, so that the respondent has an opportunity to provide all of the evidence upon which she seeks to rely in relation to the family returning to Greece.

Signed

Date

Judge of the Upper Tribunal