



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

Appeal Number: AA/11007/2014

THE IMMIGRATION ACTS

Heard at Newport

On 7 December 2015

**Decision & Reasons
Promulgated**

On 22 December 2015

Before

UPPER TRIBUNAL JUDGE GRUBB

Between

AK

(ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: No representative

For the Respondent: Mr I Richards, Home Office Presenting Officer

DETERMINATION AND REASONS

1. I make an anonymity order under Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 (SI 2008/2698 as amended) in order to protect the anonymity of the appellant who claims asylum. This order prohibits the disclosure directly or indirectly (including by the parties) of the identity of the appellant. Any disclosure and breach of this order may amount to a contempt of court. This order shall remain in force unless revoked or varied by a Tribunal or court.
2. The appellant is a citizen of Cameroon who was born on 19 July 1982. He arrived in the UK on 1 February 2012 and claimed asylum. On 19 November 2014, the Secretary of State refused the appellant's claim for

asylum and international protection and on 20 November 2014 made a decision to remove him to Cameroon.

3. The appellant appealed to the First-tier Tribunal. In a decision dated 21 January 2015, Judge Suffield-Thompson allowed the appellant's appeal on humanitarian protection grounds. She accepted that the appellant was at risk on return to Cameroon as a result of his role in an anti-music piracy organisation in Cameroon. However, because she could not be satisfied that the risk emanated from the government rather than those involved in the piracy trade, she concluded he was not entitled to refugee status. Consequently, she allowed the appeal under para 339C on humanitarian protection grounds only.
4. The appellant appealed to the Upper Tribunal on the basis that the judge should have allowed the appeal under the Refugee Convention as, in the context, the risk to the appellant was because of his actual or imputed political opinion given the context of anti-piracy activity in Cameroon.
5. On 15 October 2015, the First-tier Tribunal (Judge McDade) granted the appellant permission to appeal on that ground.
6. In a Rule 24 response dated 28 October 2015, the Secretary of State indicated that she did not oppose the appellant's appeal.
7. The appellant did not appear at the hearing before me and was not represented. However, his representatives, Asylum Justice in a letter dated 5 December 2015 indicated they would not attend but invited me to allow the appeal on asylum grounds. I considered that it was in the interest of justice to hear the appeal in the absence of the appellant applying rule 38 of Tribunal Procedure (Upper Tribunal) Rules 2008 (SI 2008/2698 as amended).
8. Mr Richards, who represented the Secretary of State, conceded that the judge should have allowed the appeal under the Refugee Convention. He invited me to set aside the judge's decision allowing the appeal on humanitarian protection grounds and re-make it allowing the appeal under the Refugee Convention.

Decision

9. In the light of the Secretary of State's concession that the appellant's appeal to the Upper Tribunal should succeed, and with which I agree, the First-tier Tribunal's decision to allow the appellant's appeal on humanitarian protection grounds involved the making of an error of law. I set that decision aside.
10. On the basis of the material before the judge, I re-make the decision allowing the appellant's appeal on asylum grounds.

Signed

A Grubb

Judge of the Upper Tribunal