



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: PA/00778/2017

**THE IMMIGRATION ACTS**

Heard at Bradford  
On 7<sup>th</sup> December 2017

Decision & Reasons Promulgated  
On 11<sup>th</sup> December 2017

Before

DEPUTY UPPER TRIBUNAL JUDGE KELLY

Between

MR MESERET TESFAY

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

**Representation:**

For the Appellant: Ms N Wilkins, Counsel instructed by Ison Harrison Limited

For the Respondent: Mr M Diwync, Senior Home Office Presenting Officer

**DETERMINATION AND REASONS**

1. This is an appeal by Mr Meseret Tulay against the decision of Judge Mensah, promulgated on the 29<sup>th</sup> June 2017, to dismiss the appeal against refusal of his Protection Claim. It is not opposed by the respondent.
2. The error of law in Judge Mensah's decision is concisely and accurately summarised by Judge Nightingale when granting permission to appeal:

“There are no findings of fact made at all at paragraph 10 and the mistakes as to the appellant’s gender and country of proposed return arguably indicate a lack of scrutiny. There is no consideration of the circumstances of the appellant’s child.”

3. Given the above, I am bound to set aside the decision and remit the appeal to the First-tier Tribunal for it to make findings of fact prior to determining the appeal.
4. I would add that I strongly suspect that the promulgated decision was a first draft that was sent in error. I therefore do not exclude the possibility of the decision being remade by Judge Mensah given that she has already heard the evidence and the arguments in the appeal. However, that is ultimately a matter for the Resident Judge at Bradford to decide.

**Notice of Decision**

5. The decision of Judge Mensah is set aside for error of law and the appeal is remitted to the First-tier Tribunal for rehearing.

Signed

Date: 8<sup>th</sup> December 2017

Deputy Judge of the Upper Tribunal