



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: PA/12099/2016

THE IMMIGRATION ACTS

Heard at Bradford
On 25th January 2018

Decision & Reasons Promulgated
On 30th January 2018

Before

UPPER TRIBUNAL JUDGE MARTIN

Between

T G
(ANONYMITY DIRECTION MADE)

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: No attendance by representatives.

For the Respondent: Miss R Petterson (Senior Home Office Presenting Officer)

DECISION AND REASONS

1. This is an appeal to the Upper Tribunal by the Secretary of State, with permission, in relation to a Decision and Reasons of Judge Myers following a hearing at Bradford on 26th April 2017. In a Decision and Reasons promulgated on 5th May 2017 the appeal was allowed.
2. For the sake of continuity and clarity I shall refer to TG as the Appellant and to the Secretary of State as the Respondent in this judgment.

3. The Appellant had claimed asylum on the basis that he is a Pentecostal Christian from Eritrea.
4. The Secretary of State asserted that he was not credible on the basis that he spoke only Amharic and could not answer questions about Eritrea.
5. Permission to appeal having been granted by an Upper Tribunal Judge, the matter came before me to decide whether the First-tier Tribunal had made an error of law in its Decision and Reasons and if so whether and to what extent the Decision and Reasons should be set aside.
6. The Appellant is represented by J D Spicer Zeb Solicitors. They did not attend. My clerk telephoned their offices and was told they had received no Notice of Hearing and requested an adjournment. The Appellant had attended but there was no interpreter and he cannot speak English.
7. Having prepared the case and formed a preliminary view that there was no error of law, I discussed with Miss Petterson whether she was going to argue the error of law. She accepted there was no error of law. On that basis I did not adjourn but dismissed the Secretary of State's appeal to the Upper Tribunal. The Appellant's representatives were notified that the Secretary of State's appeal had been dismissed.
8. My reasons for dismissing the appeal are as follows.
9. The Secretary of State had asserted that the Judge had erred in applying the wrong standard of proof in respect of the Appellant's potential nationality. It was said that the Judge had applied the lower standard of proof instead of a balance of probabilities. It was asserted that the Judge's acceptance of the Appellant's evidence in regard to his visit to the Ethiopian Embassy did not meet the Tribunal's definition of "all reasonable steps" as set out in the head note to ST (Ethnic Eritrean - nationality-return) Ethiopia CG [2011] UKUT 00252 (IAC).
10. In the Decision and Reasons the Judge set out the Appellant's claim that he moved to Ethiopia with his parents aged two and remained there until deported in 2000. In Eritrea he and his father practised their Pentecostal faith in secret. However the Appellant was arrested and detained from a Pentecostal church in 2002. After his release he left Eritrea for the Sudan. He did not return to Eritrea.
11. The Judge noted that the Appellant had given a detailed account of his deportation and life in Eritrea.
12. The Judge noted that there was a letter from the Eritrean Community in London supporting his claim to be Eritrean but found that to be of limited value.
13. The Judge noted the evidence of the Appellant's friend, an Eritrean who knew the Appellant in Eritrea as they had been deported from Ethiopia together. He has Refugee status as an Eritrean. She found his evidence credible. That is not challenged by the Secretary of State.

14. With regard to the fact that the appellant cannot speak fluent Tigrinya, the Judge accepted that this was consistent with his background. That has not been challenged by the Secretary of State.
15. The Judge then noted that although the Letter of Refusal did not specifically state that the Secretary of State believed the Appellant to be Ethiopian, it was implied. The Judge noted the evidence that the Appellant had visited the Ethiopian Embassy, that his friend went with him and that there were photographs of them inside the Embassy. His evidence was that he gave his personal and family details and that he had been deported from Ethiopia in 2000. He was told that he would not be issued with an Ethiopian passport. The Judge followed the guidance of the Country Guidance case, which she specifically quoted at paragraph 26 of the Decision and Reasons.
16. The Judge reached sustainable conclusions on the evidence before her. There is no indication that she applied too low a standard of proof. The grounds are in reality a disagreement with her conclusions.
17. The Decision and Reasons contains no error of law, material or otherwise.

Notice of Decision

The Secretary of State's appeal to the Upper Tribunal is dismissed.

Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008

Unless and until a Tribunal or court directs otherwise, the Appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify him or any member of their family. Failure to comply with this direction could lead to contempt of court proceedings

Signed

Date 25th January 2018

Upper Tribunal Judge Martin