



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

Appeal Number: PA/02781/2018

THE IMMIGRATION ACTS

Heard at Bradford

On 2 October 2018

**Decision & Reasons
Promulgated
On 13 February 2018**

Before

UPPER TRIBUNAL JUDGE LANE

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

**OSMAN [A]
(ANONYMITY DIRECTION NOT MADE)**

Respondent

Representation:

For the Appellant: Mr Diwnycz, Senior Home Office Presenting Officer

For the Respondent: Mr Chaudry, instructed by Halliday Reeves Law Firm

DECISION AND REASONS

1. I shall refer to the appellant as the respondent and the respondent as the appellant (as they appeared respectively before the First-tier Tribunal). The appellant was born on 1 January 1985 and is a male citizen of Sudan. He appealed to the First-tier Tribunal (Judge Manchester) against a decision of the Secretary of State refusing him international protection. That decision is dated 11 February 2018. The First-tier Tribunal, in a decision promulgated on 18 April 2018, allowed the appeal. The Secretary of State now appeals, with permission, to the Upper Tribunal.

2. Judge Manchester relied upon the existing country guidance case of *AA (Non-Arab Darfuris - relocation) Sudan CG* [2009] UKAIT 00056. The Presenting Officer before the First-tier Tribunal, Mr Paramor sought to persuade the judge in his submissions to depart from that country guidance. The judge declined that invitation and found that the country guidance case of *AA* should be followed and that the appellant as a non-Arab Darfuri, would be at risk anywhere within Sudan. The grounds assert that the judge misunderstood the Country Policy and Information Note (CPIN) which was published in August 2017 upon which the Secretary of State sought to rely. The judge had failed “to look at the evidence holistically”. The CPIN shows, according to the Secretary of State, that the situation with non-Arab Darfuris in Sudan has improved while there remained a real risk of ill-treatment for those with political profile there was no longer a risk of anything more than societal discrimination on the basis of non-Arab Darfuri ethnicity alone.
3. The judge correctly directed himself that he should rely upon the country guidance of *AA* unless there were good reasons for departing from it. At [31] he wrote:

“In this case, although I have studied with care the skeleton argument and the evidence quoted within it, it is right, that it is largely based on the guidance for decision makers in the CPIN of August 2017 and in turn is stated to be substantially sourced in the joint report of the Danish Immigration Service and UK Home Office Fact-Finding Missions of February - March 2016. The significance of this is that, although it is stated to postdate the country guidance case of *MM (Darfuris) Sudan CG* [2015] UKUT 00010 (IAC) it can only be on the basis of evidence allegedly ... only twelve months after the country guidance case was promulgated which I find questionable given the fact of the persecution of the non-Arab Darfuris by the Sudanese government has been an issue over many years.”
4. The judge concluded [32] that “the evidence presented to me in the form of the skeleton argument does not amount to very strong grounds supported by cogent evidence justifying a departure from guidance offered by the country guidance cases [of *AA* and *MM*]”. Earlier in the decision [29] the judge had found that the appellant had failed to show that he would be exposed to a real risk of persecution on account of being perceived as a threat as a political opponent to the Sudanese government.
5. The judge has found that the evidence contained in the CPIN was insufficient, without more, to displace the country guidance. He has given a clear and intelligible reason for that finding, namely that the fact-finding report upon which the CPIN is based was produced only twelve months after the Upper Tribunal had found that non-Darfuris in Sudan were at risk. The judge was not persuaded that circumstances had changed in such a short period of time following the country guidance decision. For the reason he has given, I find that the judge is entitled to rely upon the country guidance. I am not satisfied that his refusal to depart from the country guidance amounts to an error of law for the reason given in the

grounds of appeal or at all. Accordingly, the Secretary of State's appeal is dismissed.

Notice of Decision

The Secretary of State's appeal is dismissed.

No anonymity direction is made.

Signed

Date 10 December 2018

Upper Tribunal Judge Lane

No fee is paid or payable and therefore there can be no fee award.

Signed

Date 10 December 2018

Upper Tribunal Judge Lane