



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

Appeal Number: PA/11624/2018

THE IMMIGRATION ACTS

Heard at Field House

**On 27th February 2019, typed, corrected,
Signed and sent to Promulgation on 6th
March 2019.**

**Decision & Reasons
Promulgated**

On 14th March 2019

Before

Upper Tribunal Judge Chalkley

Between

**ALHAMIM [G]
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms G Brown instructed by Elder Rahimi Solicitors

For the Respondent: Ms N Willocks-Briscoe, a Senior Home Office Presenting Officer

REASONS FOR FINDING AN ERROR OF LAW

1. The appellant is a national of Sudan who was born on 24th April 1981. He made application to the respondent for recognition as a refugee. The respondent concluded that he was not entitled to international protection and the appellant appealed the decision of the Secretary of State, dated 10th September 2018, to the First-tier Tribunal. First-tier Tribunal Judge Wylie heard the appellant's appeal at Hatton Cross on 31st October 2018.
2. The appellant's appeal is based on his claimed fear of return to Sudan. He claims to have left Sudan for Egypt in 2009 and from there he flew to Turkey on 5th May, 2009. On 25th December 2009 he travelled to Greece where he remained for nineteen months. He then travelled back to Turkey on 1st July 2011 and stayed there until February 2015. He then went to Greece where he stayed until June 2015 and then, travelling through various European countries, he arrived in the United Kingdom by train from Calais on 29th July 2015 and claimed asylum on the same day.
3. The appellant's asylum claim was rejected on 26th November 2015 and an appeal to the Tribunal was dismissed on 23rd June 2016. The application to appeal this decision was rejected on 21st July 2016 and he then became appeal rights exhausted.
4. He lodged further submissions on 30th November 2017, but the respondent refused to consider these as a fresh claim. The appellant sought judicial review of this decision and the judicial review was withdrawn after the respondent agreed to reconsider the November 30th submissions as a fresh claim. The respondent subsequently considered fresh evidence and made a decision on 10th September 2018 and as I have indicated it was against that decision that the appellant appealed.
5. The appellant maintains that if returned to Sudan he would face mistreatment because of his ethnicity as a non-Arab Darfuri of Berti tribal origin. The respondent accepts that a person of non-Arab Darfuri ethnicity is likely to suffer serious harm or persecution in Sudan.
4. The judge had before her a report from a distinguished expert, Mr Peter Verney; it was dated 26th November 2017. At paragraph 301 of that report, Mr Verney concluded that it was "very likely" that the appellant is from the Berti tribe as he claims.
5. The judge began to consider her findings of fact from paragraph 35 onwards of the determination. She noted that the appellant relied on the report of Mr Verney and at paragraph 34, that the respondent accepted that Mr Verney was suitably qualified to comment on military and the security situation in Sudan. The judge makes various other findings. She draws attention to the fact there is a discrepancy between what Mr Verney said and what the appellant said at paragraph 57, but the judge does not give any consideration to the possibility that the mistake may have been on the part of Mr Verney, rather than on the part of the appellant. The judge's finding at paragraphs 58 and 59 do not impact at all on the

conclusions of Mr Verney. Similarly, the finding at paragraphs 60, 61, 62 and 63 do not impact on Mr Verney's findings. At paragraph 65 of the determination the judge said this, *"I give weight to the report of Mr Verney. However, it is only his opinion that this appellant is Berti, and I must take into account the other evidence which has been provided as well as the credibility of the appellant."*

7. The findings that follow do not in my view really impact upon the conclusions of Mr Verney. Unfortunately, it is not clear from the determination what weight she gives to the expert's opinion and how her credibility findings undermine that opinion, if in fact that was what she thought. Today Ms Willocks-Briscoe accepted that there were some difficulties with the determination.
8. I have concluded that the determination cannot stand; I set it aside. Both representatives agree that none of the judge's findings can stand in the circumstances and so the First-tier Tribunal is tasked with making clear, logical and properly reasoned findings of fact, afresh. The appeal will be heard by an Immigration Judge other than Judge Wylie, Designated Judge J F W Phillips and First Tier Tribunal Judge Lebaschi.
9. This appeal has been anonymised by the First-tier Tribunal Judge, I see no basis for any anonymity order and I discharge the order made by Judge Wylie.

Richard Chalkley

A Judge of the Upper Tribunal.