



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

Appeal Number: PA/12131/2016

THE IMMIGRATION ACTS

**Heard at Bradford
On 1 November 2019**

**Decision and Reasons Promulgated
On 05 November 2019**

Before

UPPER TRIBUNAL JUDGE PLIMMER

Between

**M A
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the appellant: Mr Hussain, Counsel

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

DECISION AND DIRECTIONS

Pursuant to Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 (SI2008/269) an Anonymity Order is made. Unless the Upper Tribunal or Court orders otherwise, no report of any proceedings or any form of publication thereof shall directly or indirectly identify the original Appellant. This prohibition applies to, amongst others, all parties.

Introduction

1. The appellant is a citizen of Sudan, who claims to be from the Berti tribe. His claim for asylum was refused by the respondent ('the SSHD') in a decision dated 26 October 2016 and he appealed against this decision to the First-tier Tribunal ('FTT').
2. In a decision sent on 10 August 2018, the FTT dismissed the appeal on protection and human rights grounds. Permission to appeal to the Upper Tribunal ('UT') was initially refused by FTT Judge Stephen Smith, before being granted by UT Judge C Lane on 15 July 2019.

Appeal to the UT

3. The renewal grounds of appeal were drafted by Mr Hussain and are as follows:
 - (i) The FTT failed to consider the country expert evidence of Ms Crowther when considering the plausibility of the appellant's account;
 - (ii) When considering whether in any event (if it was accepted that the appellant is Berti) he would face prospective risk, the FTT erred in law in departing from the relevant country guidance.
4. The SSHD did not submit a rule 24 notice.
5. At the beginning of the hearing before me, Mr Hussain accepted that it was only necessary to address ground two if he was successful on ground one. Mr Hussain merely relied on his grounds of appeal and invited me to find that the FTT failed to engage with Ms Crowther's report. Mr Diwnycz submitted that the decision was adequately reasoned and the appeal against it should be dismissed.
6. In his reply, Mr Hussain faintly raised a new matter alleging that the FTT had engaged in speculation, that had not been pleaded and did not form any part of his earlier submissions. It was far too late to raise this and I need say no more about it.

Error of law discussion

7. The FTT clearly acknowledged at [39] that "*the appellant gave a broadly consistent account which is prima facie plausible when considering country evidence. These features enhance his credibility.*" This must be read in the context of the country background evidence the FTT had already referred to. This included two country expert reports from Dr Verney and a separate report

from Ms Crother dated 25 July 2018. The latter is summarised in some detail at [33] and the FTT expressly noted Ms Crowther's conclusion that the appellant's account is consistent with the 'objective evidence'.

8. The FTT then turned its attention at [40] to several features which significantly undermined the appellant's credibility. These are set out at (a) to (f) of [40]. The FTT judge concluded at [41] that having considered all the evidence in the round and having noted aspects of the case that supported the appellant, that he was not satisfied to the low standard of proof that the appellant is Berti or had come to the adverse attention of the authorities in Sudan.
9. Mr Hussain's criticism of the FTT credibility findings focuses entirely upon the failure to address Ms Crowther's report specifically, when Dr Verney's report was addressed at [40e]. Mr Hussain submitted that the FTT excluded the supportive material from Ms Crowther and this constitutes an error of law. I accept that Ms Crowther's report explains at [15-24] that material aspects of the appellant's account are consistent with the country background materials, and is therefore plausible. However, the FTT expressly accepted that the appellant's account was plausible and took this into account at [39] and [41] when making credibility findings. There was therefore no need to go into any further detail: in effect Ms Crowther's conclusions on plausibility were accepted and balanced with other matters. Having referred to Ms Crowther's report at [33], it cannot be assumed that her evidence was left out of account. In my judgment, when the decision is read as a whole, the FTT adequately addressed the country expert evidence as part of a holistic credibility assessment. It follows that I do not accept that the first ground of appeal is made out.
10. Mr Hussain accepted that in these circumstances the second ground of appeal must fail, as it entirely depends upon the success of the first.

Decision

11. The decision of the FTT did not involve the making of a material error of law and is not set aside.

Signed: *UTJ Plimmer*

Ms M. Plimmer
Judge of the Upper Tribunal

Date:
1 November 2019