



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

Appeal Number: PA/00148/2019

THE IMMIGRATION ACTS

**Heard at Birmingham
On 6 March 2020**

**Decision & Reasons Promulgated
On 24 March 2020**

Before

UPPER TRIBUNAL JUDGE HEMINGWAY

Between

**F
(ANONYMITY DIRECTED)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr J Howard (Solicitor)
For the Respondent: Mrs H Aboni (Senior Home Office Presenting Officer)

DECISION AND REASONS

1. This is a very short decision because there was complete agreement between the parties as to what the Upper Tribunal should do.
2. In brief, the claimant is a national of Sudan. On 24 December 2018 the Secretary of State refused to grant him international protection. He appealed to the First-tier Tribunal (the tribunal). The tribunal found (albeit after some hesitation) that not only is he a national of Sudan but that he is a non-Arab Darfuri. It decided, in consequence, that he would be at risk of persecution or serious harm if returned to his home area in Sudan. But it also decided that he would be able to take advantage of an internal flight alternative to Khartoum. In so deciding, it took the view that it was

no longer required to follow country guidance given in AA (non-Arab Darfuris-relocation) Sudan CG [2019] UKAIT and MM (Darfuris) Sudan CG UKUT 00010 (IAC) due to changes which had taken place in Khartoum since those cases had been decided. Permission to appeal to the Upper Tribunal was granted. That being so, the matter came before me for it to be decided whether the decision of the tribunal contained an error of law and, if it did, what should flow from that. Representation was as stated above and I am grateful to each representative.

3. After the tribunal had decided the appeal, the Upper Tribunal issued its decision in AAR and AA (Non-Arab Darfuris-return) Sudan [2019] UKUT 00282 (IAC). The Upper Tribunal decided that there was insufficient evidence currently available to show that the country guidance as set out in the two cases cited above required revision.

4. In the circumstances Mrs Aboni accepted that the decision of the tribunal could not stand. She urged me to set aside the tribunal's decision and to remake the decision by allowing the claimant's appeal. Mr Howard was understandably entirely content with that. I have decided to do as I am invited to do. That is because there is agreement between the parties and because if the tribunal had followed the above country guidance it would have had to allow the appeal.

5. There are three more things I would like to say. Firstly, in my judgement the concession made by Mrs Aboni was proper, fair and entirely appropriate. Secondly, the decision of the tribunal was thorough and careful even though I have had to set it aside. Thirdly, although nothing was said about this before me, I have decided to continue the grant of anonymity given to the claimant by the tribunal.

Decision

The decision of the First-tier Tribunal involved the making of an error of law and is set aside. The Upper Tribunal remakes the decision in these terms: The claimant's appeal against the Secretary of State's decision of 24 December 2018 refusing to grant international protection, is allowed both on asylum grounds and on human rights grounds (article 3 of the ECHR).

Anonymity

The First-tier Tribunal granted the claimant anonymity. I continue that grant pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008. Accordingly, no report of these proceedings shall name or otherwise identify the claimant or any member of her family. This grant applies to all parties to the proceedings. Failure to comply may lead to contempt of court proceedings.

Signed:

Dated: 23 March 2020

Upper Tribunal Judge Hemingway