



IAC-FH-CK-V1

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

Appeal Number: PA/01006/2020 (V)

THE IMMIGRATION ACTS

**Heard at Field House
On 26 November 2020**

**Decision & Reasons Promulgated
On 14 January 2021**

Before

UPPER TRIBUNAL JUDGE SHERIDAN

Between

**SAA
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation

For the Appellant: Ms E Rutherford, Counsel instructed by Rodman Pierce Solicitors
For the Respondent: Mrs H Aboni, Senior Home Office Presenting Officer

This has been a remote hearing to which both parties have consented. The form of remote hearing was video by Skype (V). A face to face hearing was not held because it was not practicable and all issues could be determined in a remote hearing. I did not experience any difficulties, and neither party expressed any concern, with the process.

DECISION AND REASONS

1. The appellant is a citizen of Ethiopia born on 15 March 2003, who is from the Oromo ethnic group. On 25 January 2019 he applied for asylum. The appeal was heard by

Judge of the First-tier Tribunal Aziz (“the judge”). In a decision promulgated on 12 August 2020 the appeal was dismissed. The appellant is now appealing against that decision.

The Appellant’s Claim

2. The appellant claims to be at risk because of his (and his family’s) sympathy for, and attendance at demonstrations in support of, the Oromo Liberation Front (“the OLF”).
3. He claims that in 2014 he attended a demonstration with his father and brother where he, along with his brother, was arrested and detained for one month and fifteen days; and his father was detained and, to his knowledge, not released. He claims that his father’s whereabouts have not been known since he was arrested in 2014.
4. The appellant also claims that in 2015 he attended a demonstration in support of the OLF where police shot at protesters. He claims that his brother was arrested but that he managed to escape whereupon he travelled to Addis Ababa at which point he discovered that he was wanted by the authorities and fled the country.
5. He does not claim to have been a member of the OLF or to come from a family with a significant political profile.

Decision of the First-tier Tribunal

6. The judge stated that he took into account the extant country guidance case of *MB (OLF and MTA - risk) Ethiopia CG* [2007] UKAIT 00030 as well as more recent country information, including the respondent’s Country Policy and Information Note Ethiopia: Opposition to the government July 2020 (“the 2020 CPIN”) and the respondent’s Country Policy and Information Note Ethiopia: Oromos November 2019 (“the 2019 CPIN”).
7. The judge accepted that the appellant had been detained for one and a half months following a demonstration in 2014, as he claimed. The judge did not accept, however, that the appellant’s brother was arrested in 2015 or that his father had disappeared following the arrest in 2014. The judge found that the appellant had exaggerated this aspect of his evidence.
8. The judge found that the appeal would have succeeded if he had applied *MB* (paragraph 41) but that there was “very strong evidence and cogent reasons” to depart from *MB* (paragraph 50). The reasons given by the judge for departing from *MB* were that:
 - (i) there have been significant political changes in Ethiopia, as set out in the 2020 CPIN; and
 - (ii) the 2019 CPIN states that an Oromo who participated in protests between 2014 and 2016 (even if arrested) is unlikely to be of continuing interest to the authorities due to (a) the time that has elapsed and (b) the significant and fundamental reform since 2018.

9. The judge stated at paragraph 51:

“Had the appellant’s claim been premised on a different basis it may be that Ms Rutherford’s reference to the country information would have carried greater weight. However, I have to assess the country information in light of the findings made with regard to the appellant’s profile and his claimed fear upon return.”

10. The judge concluded in paragraph 52 that:

“Whilst there is still ongoing discrimination and ill-treatment against the Oromo people, I do not find that the country information supports the appellant’s assertion that he would be specifically at risk because of his attendance at two rallies in 2014 and 2015.”

Grounds of Appeal and Submissions

11. The appellant advanced two grounds of appeal.

12. The first ground, which was the focus of Ms Rutherford’s submissions at the hearing, is that the judge erred in his approach to assessing whether he should depart from *MB*. It is argued that only objective evidence about the conditions in Ethiopia is relevant to whether a country guidance case should be departed from and the judge erred by taking into consideration material relating to the facts of the appellant’s case.

13. The grounds state that the judge fell into error in paragraph 51 by referring to the facts of the appellant’s case and by stating that had the appellant’s claim been premised on a different basis then the references made by the appellant to the country information would have carried greater weight.

14. At the hearing, Ms Rutherford submitted that any departure from country guidance case must be on the basis of objective material and not the facts of the claim.

15. She also argued that the judge failed to engage with the evidence postdating *MB*, as found in the 2019 CPIN and 2020 CPIN, which shows that notwithstanding the political changes in Ethiopia there remains a significant risk to Oromos.

16. The second ground of appeal argues that the judge failed to give reasons for rejecting the appellant’s claim that his father had disappeared. The grounds submit that this is material because if the appellant’s father disappeared following his arrest that would alter the background against which the appellant’s risk on return should have been assessed.

17. Mrs Aboni’s response to Ms Rutherford’s submissions was that the judge directed himself correctly (at paragraph 42) on when it is appropriate to depart from a country guidance case. She submitted that it was open to the judge to find that there were strong grounds to depart from *MB*, given that *MB* was decided approximately thirteen years ago and there have been significant changes in Ethiopia since then. She argued that the judge was required to consider the appellant’s profile in order to determine whether he would still be at risk and that, having found that he did not

have an intention to become involved in political activity on return to Ethiopia, it was open to the judge to find that he would not be at risk.

Analysis

18. Ms Rutherford argues that the judge improperly took into consideration the facts of the claim to determine whether a departure from *MB* was justified. I disagree. The judge's reasons for departing from *MB*, as set out in paragraphs 50 and 51 of the decision, are entirely grounded in the objective evidence. In summary, they are that the 2019 CPIN and 2020 CPIN make clear that since 2018 there have been significant and fundamental changes in Ethiopia such that a person, such as the appellant, who participated in and was arrested at demonstrations in 2014 – 2016 (but who is not an OLF member, not politically active and not from a family with a political profile) is unlikely to be of interest to the authorities.
19. It is apparent from reading the decision as a whole that the judge's assessment of the appellant's account was not undertaken in order to determine whether the political changes in Ethiopia since 2018 were sufficient to warrant a departure from *MA*, but rather to decide whether a person with the appellant's profile would still face a risk in the light of the fundamental changes identified in the objective evidence as having taken place since 2018.
20. This assessment of the appellant's account was necessary because, as the judge acknowledged in paragraphs 51 and 52 of the decision, the objective evidence set out in the 2019 CPIN and 2020 CPIN shows that Oromos continue to face difficulties and discrimination in Ethiopia. The judge recognised that some Oromos, depending on their profile, may continue to face a risk. However, the judge found that a person with the appellant's profile would not. This conclusion was entirely consistent with, and open to the judge based on, the objective evidence in the 2019 CPIN and 2020 CPIN.
21. I cannot identify any flaw in the approach taken to departing from the extant Country Guidance case of *MB*. The judge based his assessment on the objective evidence before him which, on any legitimate view, shows that there have been very substantial changes since *MB* was decided; and he recognised that there needed to be very strong grounds supported by cogent evidence to depart from *MB*: see paragraph 50, stating that there was "very strong evidence and cogent reasons to depart from *MB*" and the self-direction in paragraph 42 of the decision referring to paragraph 47 of *SG (Iraq) v Secretary of State for the Home Department* [2012] EWCA Civ 940.
22. For these reasons, I reject the first ground of appeal.
23. The second ground argues that the judge failed to give any, or adequate, reasons for not accepting the appellant's account of his father's disappearance. However, in paragraphs 37 – 40 of the decision, under the heading "the appellant's father and brother's disappearance" the judge described the appellant's evidence as inconsistent, contradictory and problematic and gave reasons for reaching these conclusions. These unchallenged findings in respect of the appellant's evidence

constitute an adequate explanation for rejecting the appellant's evidence about the disappearance of his father. There is therefore no merit to the second ground of appeal.

Notice of Decision

The appeal is dismissed. The decision of the First-tier Tribunal stands.

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 his family. This direction applies both to the appellant and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.

Signed

D Sheridan

Upper Tribunal Judge Sheridan

Date 5 January 2021