



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2022-005710
First-tier Tribunal Nos: PA/50559/2021
IA/03574/2021

THE IMMIGRATION ACTS

**Decision & Reasons Issued:
On the 09 May 2023**

Before

**UPPER TRIBUNAL JUDGE SHERIDAN
DEPUTY UPPER TRIBUNAL JUDGE WILDING**

Between

**NMT
(ANONYMITY ORDER MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms B Patel-Chandegra, Solicitor

For the Respondent: Ms A Everett, Senior Home Office Presenting Officer

Heard at Field House on 13 March 2023

Order Regarding Anonymity

Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, the appellant is granted anonymity. No-one shall publish or reveal any information, including the name or address of the appellant, likely to lead members of the public to identify the appellant. Failure to comply with this order could amount to a contempt of court.

DECISION AND REASONS

1. The appellant is a citizen of Ethiopia born in 1985. He is appealing against a decision of Judge of the First-tier Tribunal Brannan (“the judge”) dated 25 July 2022 dismissing his protection claim.

The Appellant’s Claim

2. The appellant claims that he faces a risk of persecution in Ethiopia on account of his involvement with and support for the Oromo Liberation Front

("OLF"). The key parts of his claim are:

- (a) In 2008 he was arrested and detained (during which time he was interrogated and beaten) for distributing OLF leaflets. After his release he continued to support the OLF in secret.
- (b) In December 2015 he won a competition to travel to the UK. In June 2016 he travelled to the UK. The following day he contacted his family and was told that the authorities had raided his home and beaten and taken away his wife. He did not return to Ethiopia because he feared being arrested.
- (c) Since coming to the UK he has attended meetings in support of the OLF and has posted pro-OLF material on social media, which has resulted in threats against him.
- (d) In 2017 his mother-in-law was detained by the authorities after speaking on the telephone to him.

The Previous First-tier Tribunal Decision

3. The appellant initially claimed asylum in 2016. His application was refused and his subsequent appeal came before Judge of the First-tier Tribunal Cope ("the previous judge"). The previous judge did not find the appellant's account credible and did not accept any aspect of his claim. Amongst other things, the previous judge did not accept that the appellant had been arrested and detained and that he was (or had been) an OLF supporter. The previous judge also did not accept that the appellant was of Oromo ethnicity.

The Challenged First-tier Tribunal Decision

4. The judge directed himself that the principles in *Devaseelan (Second Appeals - ECHR - Extra-Territorial Effect) Sri Lanka** [2002] UKIAT 00702 were applicable and stated that the previous judge's decision was his starting point.
5. The judge found that the appellant had been consistent in his evidence of being of mixed ethnicity and identifying as Oromo; and accepted his evidence as to his ethnicity.
6. The central argument advanced by the appellant before the judge as to why his circumstances had changed since the decision of the previous judge was that in December 2017 his mother-in-law had been arrested and detained following a telephone conversation with him. The appellant sought to corroborate that this occurred by providing a letter from the Ethiopia Federal Police Commission to his mother-in-law. I will refer to this letter, which is dated 25 March 2018, as "the police letter".
7. The first paragraph of the police letter states that the appellant has been involved with the OLF and managed to escape capture in March 2015. The second paragraph states that the appellant is in the UK and involved with the OLF. It is then stated that the appellant's mother-in-law also supports and is involved with the OLF and consequently was detained from December 2017 to February 2018 for investigation. It is then stated, in the third paragraph of the police letter, that the appellant's mother-in-law was released because she was unwell and had paid a bail bond. It is then stated that she

and the appellant are “strictly warned never to engage in this kind of vile act and this is the condition for your release today”.

8. The police letter was considered by Dr Seddon, an expert on Ethiopia. In paragraphs 6.7–6.14 of his report dated 30 May 2020 Dr Seddon evaluated the police letter in detail. With respect to the form and style of the letter, Dr Seddon stated that he saw:

“no reason why the document itself should not be regarded as genuine and authentic”.
9. With respect to the police letter stating that the appellant escaped in March 2015, Dr Seddon stated:

“one can only conclude that the police were in error in referring to his escape in March 2015”.
10. The judge considered the police letter, and Dr Seddon’s assessment of it, in paragraphs 63–64 of the decision, where he stated:

“63. The Appellant says his mother in law told him she was detained by the authorities after they had been speaking on the telephone. He relies on a letter to support this claim. The original letter in Amharic is at page 189. The translation is at page 313. It is addressed to the Appellant’s mother in law. There are a number of issues with it:

 - (a) It is not clear why the Ethiopian Federal Police Commission produced it.
 - (b) The letter refers to the Appellant having escaped in March 2015, which he did not do on his own account.
 - (c) It introduces the idea that the Appellant’s mother in law is an OLF supporter, which is something the Appellant never before claimed.

64. The expert tries to deal with this at paragraphs 6.7 to 6.14 at pages 207 to 209 of his report. He says that there is no reason based on the form of the document that it should not be regarded as genuine and authentic. However he does not give any explanation for why the police would produce such a letter. He notes the wrong date of March 2015 and says that the police must be in error ...”
11. The judge found that the appellant’s *sur place* activities were limited and did not give rise to a risk on return. He noted that the appellant was not relying on a *sur place* claim.

Grounds of Appeal and Submissions

12. The grounds as drafted are difficult to follow. Ms Patel-Chandegra confirmed that there are two grounds.
13. Ground 1, as explained by Ms Patel-Chandegra, concerns paragraphs 63 and 64

of the decision, which are set out above in paragraph 10. She submitted that the judge erred by not treating the police letter as reliable evidence when a highly qualified expert found it to have all the hallmarks of a genuine document. Ms Patel-Chandegra argued that the judge did not have a legitimate basis (and was being speculative) when she drew an adverse inference from Dr Seddon not giving any explanation as to why the police would produce the police letter. She submitted that Dr Seddon did not need to address why such a letter was written and it was sufficient that he carefully considered it and expressed the considered view that it appeared authentic.

14. In response to a question about whether Dr Seddon has the expertise to express an opinion on the authenticity of the police letter, Ms Patel-Chandegra responded by submitting that as a country expert he was in a position to provide a view on the document.
15. Ground 2 (mistakenly titled ground 4 in the grounds) concerns the appellant's *sur place* activities. Ms Patel-Chandegra did not pursue this ground (although she did not withdraw it).
16. Ms Everett argued that the issue for the judge to determine was whether the police letter was reliable, and it is evident from paragraphs 63–64 that the judge grappled with this question, having regard to all relevant considerations. She submitted that it is clear that Dr Seddon's evidence about the police letter was considered as part of the judge's assessment and therefore the argument that the judge overlooked, or did not fully address, Dr Seddon's evidence in respect of the police letter cannot be maintained. She submitted that the judge was entitled to not treat Dr Seddon's opinion as determinative; and, in any event, Dr Seddon went no further than to say that he saw no reason why the document itself should not be regarded as genuine and authentic.

Analysis

17. The judge gave three reasons (in paragraph 63 of the decision, which is set out above in paragraph 10) for not finding the police letter reliable. We are satisfied that all three of the reasons are sustainable, and support the conclusion reached.
18. The first reason given by the judge was that it was not clear why the Ethiopian Federal Police Commission would write such a letter and Dr Seddon's report contained no explanation of why they would do so. On its face, the contents of the police letter are somewhat surprising, in that it is a letter sent to the appellant's mother-in-law, referring to her detention between December 2017 and February 2018, which appears to be more focused on the conduct (including in the UK) of the appellant, than on the appellant's mother-in-law. Dr Seddon undertook a detailed analysis of the police letter, but did not address the obvious question of why such a letter would have been written, or if it is even plausible that such a letter would be written, by the Ethiopian authorities. In our view, the judge was entitled to take the absence of any such explanation by Dr Seddon into account when assessing the reliability of the document.
19. The second reason given by the judge for not finding the police letter reliable was that it referred to the appellant escaping in March 2015, which is inconsistent with the appellant's account. Having taken into account Mr

Seddon's opinion (which was that the police must have made an error) it was open to the judge to draw an adverse inference from this inconsistency.

20. The third reason given by the judge for finding the police letter unreliable was that it introduced the idea of the appellant's mother-in-law as an OLF supporter, which was something the appellant had not claimed previously. This, too, is a factor the judge was entitled to have regard to when assessing the reliability of the police letter.
21. The judge did not overlook the evidence of Dr Seddon about the form of the police letter appearing authentic and genuine as this is referred to paragraph 64 of the decision.
22. We are satisfied that the reasons given by the judge in paragraph 63 adequately explain why he concluded that, even if the police letter has the physical appearance and form of being genuine and authentic, it is not reliable evidence. The appellant therefore cannot succeed under ground 1.
23. Ground 2 concerns the appellant's *sur place* activities. Ms Patel-Chandegra did not pursue this ground at the hearing and consequently Ms Everett did not make any submissions in respect of it. We are in no doubt that the appellant cannot succeed under this ground given that his representative in the First-tier Tribunal stated that a *sur place* claim was not being pursued. See paragraphs 25 and 74 of the decision.

Notice of Decision

24. The decision of the First-tier Tribunal did not involve the making of an error of law and therefore stands. The appeal is dismissed.

D. Sheridan

Judge of the Upper Tribunal
Immigration and Asylum Chamber

20.4.2023