



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2022-004013
First-tier Tribunal No:
PA/50326/2022
IA/01046/2022

THE IMMIGRATION ACTS

Decision & Reasons Issued:
On the 03 July 2023

Before

UPPER TRIBUNAL JUDGE HANSON

Between

AHM
(ANONYMITY ORDER MADE)

Appellant

and

SECRETAY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms Sanders instructed by JD Spicer Zeb, Solicitors.

For the Respondent: Ms Z Young, a Senior Home Office Presenting Officer.

Heard at Phoenix House (Bradford) on 12 June 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. Following a hearing at Bradford on 13 March 2023 it was found that the decision of the First-tier Tribunal who dismissed AHM's appeal had erred in law when concluding he was not credible as a result of a material mistake of fact.
2. The First-tier Tribunal found the appellant had made a genuine effort to substantiate his claim for asylum and that all material factors at his disposal had been submitted, that the account did not run contrary to general

information, including background evidence relevant to his claim, and that the appellant had made protection claim at the earliest possible time. Those are preserved findings as they were not challenged by the Secretary of State.

3. There are matters that arise in paragraph 339L of the Immigration Rules which read:

339L. It is the duty of the person to substantiate the protection claim or substantiate their human rights claim. Where aspects of the person's statements are not supported by documentary or other evidence, those aspects will not need confirmation when all of the following conditions are met:

- (i) the person has made a genuine effort to substantiate their protection claim or substantiate their human rights claim;
- (ii) all material factors at the person's disposal have been submitted, and a satisfactory explanation regarding any lack of other relevant material has been given;
- (iii) the person's statements are found to be coherent and plausible and do not run counter to available specific and general information relevant to the person's case;
- (iv) the person has made a protection claim or made a human rights claim at the earliest possible time, unless the person can demonstrate good reason for not having done so; and
- (v) the general credibility of the person has been established.

- 4. The issue before me, therefore, is that set out at paragraph 339L (v) namely whether the appellant's general credibility has been established.
- 5. The appellant is a citizen of Ethiopia born on 1 December 1994. His claim for international protection is based upon risk arising from a perceived adverse political opinion.
- 6. It is not disputed that the appellant's home area is Chagni, in the Northern Amhara region of Ethiopia, and that he speaks Amharic.
- 7. The error in the First-tier Tribunal decision related to whether the appellant had or had not referred to an arrest warrant dated 18th November 2011 (in the Ethiopian calendar).
- 8. The directions provided for in the error of law finding included a direction that the written evidence will stand as the evidence in chief of the maker. Further evidence had been sent in on the appellant's behalf and questions were put to him by way of cross-examination by Ms Young. There was no re-examination by Ms Sanders.
- 9. It was put to the appellant that there are discrepancies between two of his witness statements which were inconsistent in that different accounts are given for the same event.
- 10. In relation to the arrest warrant the discrepancy was as to when he received the document which was said to be relevant to the credibility of the claim. It was argued that as the appellant had not established his credibility the appeal should be dismissed.
- 11. Specific reference was also made by Ms Young to the reasons for refusal letter in which although some aspects of the appellant's claim are accepted core issues were rejected. In relation to the appellant's father's involvement the ADP, it is said in the refusal letter that there is a reference to the appellant's evidence about his father's involvement in the party being vague, inconsistent, contradictory, and that despite being given further opportunities to provide more detail during asylum interview the appellant was unable to do so, which damaged his credibility. It was found to be contradictory that although the appellant knew very little about the topic in his asylum interview his further

- submissions provided a much greater level of detail regarding his father's political membership of the ADP party.
12. In relation to his own politically related activities, it was noted the appellant claimed to have carried out work for the political party Baeden ADP (Amhara Democratic Party) of which he claimed his father was a member. Although the claim regarding his father's political activity had been rejected for lacking credibility the appellant's claims were considered independently. It was noted during the asylum interview the appellant had claimed to be neither a supporter nor a member of the party yet in his screening interview he claimed he was working for and supporting a political organisation which was found to be internally inconsistent. It was further noted that the appellant had claimed his father asked him to deliver letters to people on his behalf which invited people to attend a coup to overturn the government but alternatively that he did not know the content of the letters and never found out what the content of the letters were. This was said to be a further internal inconsistency. It was also found in the refusal letter that the appellant's account in relation to why he took the risk of delivering the letters if he did not know the content was vague and lacking in detail, as it was on other points set out in the refusal letter.
 13. In relation to risk as a result of political activities in his father's political activities the appellant's claims were rejected in the refusal letter. The appellant claimed to have been arrested on 15 June 2011 (Ethiopian calendar) and detained but is criticised in the refusal letter for not mentioning this in the screening interview.
 14. It is settled law that a screening interview is not a full account of an individual's claim especially if taken shortly after a long or difficult journey to the United Kingdom.
 15. The appellant was asked questions about his arrest in the asylum interview, and it is recorded that he claimed the police came looking for him and his father on 15 June at night and arrested them but alternatively he stated the police came looking for his father that night and took him which was said to be contradictory. The appellant claimed he was released when a police officers came to his cell at night, covered his face, put him in a vehicle, and drove him to meet his uncle who was waiting for him, claiming the police officer that handed him over to his uncle said he worked with his father who was a friend, which was found to contradict the claim that the appellant's father did not have any connection to the police. When this was put to the appellant he claimed that his father had no connections with the ordinary police but that he did with the federal police which was not found to be consistent evidence.
 16. The appellant also claimed that his father took part in a coup where people died and that the relatives of those who died would seek revenge as part of a blood feud. It is also claimed that the relatives of people killed had not tried to harm in any way, leading to it being recorded in the refusal letter that certain elements of the appellant's claim were found to be speculative.
 17. The appellant claimed to know he was of ongoing interest to the authorities in Ethiopia due to the fact he spoke to his uncle over a year ago when he was told the police were harassing his wife but when the appellant was asked how he knew he was still of interest if he had not spoken to his uncle for such a long time he claimed he did not know about the current situation. It was noted that in post-interview clarifications an arrest warrant was mentioned as having been handed to the appellant's life in Ethiopia for him. At [79] of the refusal letter it is written "*given, you claimed that you have had no contact with your wife since prior to your arrest in Ethiopia (AIR 259) and you were last in contact with your uncle over 1 year ago (AIR 25,262,263) it must be considered that you were aware of the arrest warrant issued for you and given to your wife by the time that you attended your asylum interview. Therefore, it is unclear why you state*

that you do not know about the current situation with regards to why you are still of ongoing interest to the government”.

18. It was also noted in the refusal letter that despite claiming to be of interest to the authorities the appellant had stated that post his release from custody his uncle took him for treatment for an injury to his leg to the same area from which he was arrested and where he told the police he lived, in Ethiopia, yet the police did not look for him during that time. The appellant also claimed when he left that area, Chagni, he crossed a checkpoint on the border with Sudan. The explanation provided that the agent had stated he told the authorities he was crossing the border for the purposes of medical treatment was found to be contrary to country information [82]. It is noted that after the attempted coup the Ethiopian government deployed federal government forces to Amhara, many arrests were made and the country's Internet shutdown with changes made to the terrorism laws which makes it implausible the appellant would have been exempt from border controls in order to access medical treatment, or allowed to pass through a checkpoint without issue at the time extra security measures were put in place across Ethiopia.
19. In relation to risk on return it is written:

85. You claim that you fear the Ethiopian authorities and the family members of people that you claim your father has killed during a coup in Ethiopia (AIR 83).
86. As stated above, your claim has not been accepted. This means that it is not accepted that you will face a risk of persecution or real risk of serious harm on return to Ethiopia because it is not accepted that you have been politically active, of consequently it is not accepted that you have faced further problems due to your claim to political activity on behalf of your father. It is therefore also not accepted that you face a future risk from the Ethiopian authorities or the relatives of those who died in the coup attempt.
87. It has not been accepted that you were politically active in Ethiopia nor that you experienced any problems as a result of any political activity. Nevertheless, your risk on return to Ethiopia as a result of your claim to political activity on behalf of your father against the government has been considered on an alternative basis below.
88. Within your claim you stated that you were not a supporter or member of any political party, but your father was a member of ADP party. You claim that you carried out work for him delivering letters that you claim were to organise a coup against the Ethiopian government.
89. It is not accepted that there is a future risk of persecution as it has been rejected that you have faced problems as a result of your father's and your own political involvement as outlined above, so it is not considered or that you would be a person of interest to the authorities or the families of those that died during the coup attempt. You also do not support the ADP or a member of this party (AIR 133). You are also not a member of any other political organisations (AIR 35). You have also not been politically active since arriving in the UK (AIR 306).
20. Although the decision of the First-tier Tribunal was set aside for the reasons set out in the error of law finding, the evidence given to Judge Row stands. In relation to that evidence it is recorded:
59. The appellant's journey from Sudan to the United Kingdom as something of a mystery. He claims to have been flown by a small plane to an unknown airport. From there he took an airline to France. He says he used a false passport. He says that he disposed of the passport and the flight tickets when he got to France. It is implausible that anyone would fly on an international flight and not know from which airport he had left. There would be signs. The flight details would be on the tickets. The check-in desk would give that information. In-flight information would give details of the journey.

Case No: UI-2022-004013
First-tier Tribunal No: PA/50326/2022

60. For whatever reason the appellant has chosen not to give a complete account of his journey. One reason would be to conceal where he travelled from and which name he used to do so.
 61. He has given conflicting accounts of his travels in Europe. In the screening interview he said that he had remained in France for two months and 15 days, page 264. In his witness statement he says that he was there for two hours.
 62. In his screening interview the appellant made no reference to his father having been killed by government forces in an attempted coup. The appellant was asked if he had ever been arrested. He said that he had not.
 63. ...
 64. ...
 65. A screening interview is not expected to be a detailed account of the appellant's experiences. However the involvement of his father in a military coup, the death his father in a gun battle, and of the appellant being arrested and tortured, would be significant events in anyone's life. Having fled Ethiopia and travelled by car, plane, and sea, with the intention of claiming asylum in the United Kingdom, it might have been expected that these events would have been mentioned. They were not.
 66. ...
 67. There are matters which damage the appellant's credibility by virtue of section 8 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004. 68. The appellant could have claimed asylum in France, or Belgium. His failure to do so damages his credibility.
21. The appellant has provided two witness statements in support of his asylum claim and was cross-examined on them by Ms Young. It is clear from an examination of those statements that the appellant's evidence on the specific points referred to is inconsistent, an issue identified in his evidence referred to in the refusal letter.
22. One of the discrepancy is related to when the appellant received the arrest warrant. The appellant in one part of his evidence claimed he became aware of it, and it was sent to him when he was in the United Kingdom which contradicted his claim to have received it when he was in France.
23. The arrest warrant itself, of which a translation has been provided, is not supported by any expert evidence as to whether it is a genuine document or not. The translation of the same reads:

THE ETHIOPIAN FEDERAL POLICE COMMISSION CRIME INVESTIGATION BUREAU

Ref 3372971
Date 18/11/2011 EC[25/07/2019 GC]

The Ethiopian Federal Police Commission Crime Investigation Bureau To Comander Feysa Alemeu The crime investigation bureau of the Ethiopian Federal Police is referring to the arrest warrant of the suspect -Mr Amir Hassen Muhammed- which was issued by the first-tier court of Lideta - w/m/k 2127781. Mr Amir Hassen Muhammed was suspected of being involved in Sene 15/2011 EC [22/06/2019 GC] attempted coup in the Amhara regional government and the subsequent killing of high-ranking government official of Amhara regional government. His father Mr Hassen Muhammed was a member of the Amhara Democratic Party(ADP) and a platoon commander of a militia . His father misused his position in the militia and tried to conspire against the government by using the militia members under his command. His father took orders from the head of the Amhara region Security Chief General Asamignew Tsige who led the attempted coup that subsequently caused the killing of government officials of the Amhara regional government. His father was killed in a shoot-out against the police and armed forces. His son, the suspect, Mr Amir Muhammed, had been circulating letters between his father and the conspirators who would later take part in the attempted coup. Amir Hassen played his part in the attempted coup by circulating sensitive documents between his father's colleagues. The documents detailed coup plans. The police collected evidence from other suspects that participated in the coup. The suspects

Case No: UI-2022-004013
First-tier Tribunal No: PA/50326/2022

confirm the suspect had been circulating sensitive documents regarding the coup. The suspect was detained for a couple of days and then escaped from detention. It is not yet known how he managed to escape. The police attempted to arrest him at his address. He could not be found at his address, and so the police asked the court to issue an arrest warrant in accordance with the Arrest Warrant Act W/M/S/S/H/K 53. The court has accepted the police request and has ordered the police to meet the following instructions.

The court has decided that the suspect, Amir Hassen Muhammed, should be heard at the court, and an Arrest Warrant is the only means to that effect. The police are instructed to arrest and bring the suspect to the court in accordance with the Act w/m/s/h/q 53. The police officer who is instructed to make the arrest should confirm the identity of the accused; the police should read out the warrant to the accused, and if the accused requested to see the warrant he should be granted; the police should not use unnecessary force to apprehend the accused; the human rights of the accused should be respected and should be taken to a nearby court within 48 hours. Any items confiscated during an arrest should be kept safe as an exhibit.

With Regards,
Signed
L/C Atinafu W/Gabray

24. The Criminal Procedure Code of Ethiopia brought into force by the Ethiopian government by Proclamation No 185 of 1961 is relevant. I have not been referred to a more up-to-date version of the code specifically relating to the procedure for the issue of an arrest warrant.

25. Article 52 -54 of the code reads:

Art. 52. - Principle.

(1) Where a warrant is required by law to be issued by a court before a person is arrested the provisions which follow shall apply.

(2) A warrant of arrest shall be in the form prescribed in the Third Schedule to this Code.

(3) A warrant of arrest shall remain in force until executed or cancelled by the court which issued it notwithstanding the death, retirement or replacement of the judge having issued the warrant.

Art. 53. -- Issue of warrant.

(1) A warrant of arrest may be issued on the application of any investigating police officer by any court and shall be addressed to the chief of the police in the Taklay Guezat in which it is issued.

(2) A warrant may be issued at any time and on any day of the year.

(3) A warrant of arrest may be executed in any part of the Empire by any member of the police.

Art. 54. - When warrant of arrest to be issued. A warrant of arrest shall only be issued where the attendance of a person before the court is absolutely necessary and cannot otherwise be obtained.

26. In relation to how an arrest is made Article 56 states:

Art. 56. - Arrest how made.

(1) The police officer making an arrest shall first establish the identity of the person to be arrested.

(2) Where the arrest is made with a warrant, the police officer shall read out the warrant to the person to be arrested and shall show it to the person arrested if he so requests.

(3) He shall then actually touch or confine the body of the person to be arrested unless there be a submission to his custody by word or action.

(4) If such person forcibly resists the endeavours to arrest or attempts to evade the arrest, such officer may use all means proportionate to the circumstances to effect the arrest.

(5) The provisions of this Article shall also apply to bench warrants.

27. There is specific reference in Article 52 to the fact an arrest warrant must/shall be in the form prescribed in the Third Schedule to the Code. This clearly indicates that unless it is in the prescribed form it is unlikely to be a valid arrest warrant.

28. The format set out in the Third schedule is in the following terms:

Form VI. - Warrant of arrest
(Under Art. 65)

To the Chief police officer of the Taklay Guezat of , ..
and all other police officers.

Whereas of stands charged with the offence
of

you are hereby directed to arrest the same and to produce him before this court at .., ..
"

Dated this day of 19.....
Judge

This warrant may in the discretion of the court be endorsed as follows: " If the said , shall give bail in the sum of Eth. dollars '.....' with one surety in the sum of Eth. dollars. to attend before the court on the " day of next and to continue so to attend until otherwise directed by the court he may be released. Dated this day of 19.....

Judge

29. The first point to notice is the material difference between the prescribed form and the alleged arrest warrant provided by the appellant. The narrative in the alleged warrant reflects the appellant's claim as to why he faces a real risk but fails to identify the actual offence, by reference to the relevant criminal code, with which the appellant is allegedly suspected. There is reference to an attempted coup and his involvement but no reference to any specific article of the Penal Code, as required by the law, in relation to which the appellant is accused. I would anticipate that an attack upon the government could constitute high treason or attack on the integrity of the state or a number of serious offences. This is relevant not only as it reasonable to expect a warrant to indicate the legal provision which a person is suspected of breaching, but also the court to which an individual is to be brought before once arrested. In relation to the Ethiopian Criminal code serious offences such as those the appellant claims he has been committing will be to the High Court, yet there is no indication of this in the arrest warrant.

30. I find that, cumulatively, the concerns recorded in the appellant's evidence in the refusal letter, by the First-tier Tribunal, in relation to the content of the arrest warrant, and identified by Miss Young, support a finding the appellant's account is riddled with inconsistencies such as that cannot be accepted as being credible. I find the appellant is not a credible witness.

31. The appellant's nationality, ethnicity, and identity have been accepted but beyond that I do not accept (i) his claim in relation to his political activity or involvement with the coup in Ethiopia is credible, (ii) that the arrest warrant he has produced is genuine, or (iii) that he is of adverse interest to the authorities for any reason associated with his time in Ethiopia.

32. I do not accept Ms Sanders submission that the appellant's account has been consistent. I do not accept her submission that the appellant has been telling the truth. The evidence as a whole shows the opposite is the case.
33. It was submitted on the appellant's behalf that if the Tribunal did not accept that the arrest warrant is a valid document that the appellant will still face a real risk on return. It is argued that the appellant faces a real risk as a result of his ethnicity, that Ethiopia is divided, and that members of the Amharic community have been targeted through civil war and intercommunity violence. It was submitted the appellant's account is in line with the country information.
34. I accept that the latest country guidance case does indicate a real risk for a person if they have been arrested or detained previously, or have required adverse profile, but I do not accept the appellant's claims in this respect to be credible.
35. The recent country guidance relating to Ethiopia is that of Roba (OLF-MB confirmed) Ethiopia CG [2022] UKUT 00001 (IAC) the head note of which reads:

Country guidance: OLF members and sympathisers (supporters)

(1) MB (OLF and MTA - risk) Ethiopia CG [2007] UKAIT 00030 still accurately reflects the situation facing members and supporters of the OLF if returned to Ethiopia. However, in material respects, it is appropriate to clarify the existing guidance.

(2) OLF members and supporters and those specifically perceived by the authorities to be such members or supporters will in general be at real risk if they have been previously arrested or detained on suspicion of OLF involvement.

(3) Those who have a significant history, known to the authorities, of OLF membership or support, or are perceived by the authorities to have such significant history will in general be at real risk of persecution by the authorities.

(4) 'Significant' should not be read as denoting a very high level of involvement or support. Rather, it relates to suspicion being established that a person is perceived by the authorities as possessing an anti-government agenda. This is a fact sensitive assessment.

(5) Whether persons are to be excluded from recognition as refugees or from the grant of humanitarian protection by reason of armed activities may need to be addressed in particular cases.

1. General application of country guidance

(1) The treatment of country guidance as a presumption of fact means that it will be for the parties seeking to persuade the Tribunal to depart from it to adduce the evidence justifying that departure.

(2) An assessment as to whether to depart from a CG decision is to be undertaken as to: (i) whether material circumstances have changed; and (ii) whether such changes are well established evidentially and durable.

(3) The law, and the principle, are not affected by the age of the CG decision. It may be that as time goes on, evidence will become available that makes it more likely that departure from the decision will be justified. But the process remains the same, and unless in the individual case the departure is shown to be justified, the guidance contained in the CG decision must, as a matter of law, be adopted.

(4) If the parties fail to abide by their general duty in respect of identifying extant country guidance, it remains for the Tribunal to consider such guidance and to follow it.

(5) Any failure by the Tribunal to apply a CG decision unless there is good reason, explicitly stated, for not doing so might constitute an error of law in that a material consideration has been ignored or legally inadequate reasons for the decision have been given.

(6) A party that before the First-tier Tribunal has failed to address extant country guidance or has failed to demonstrate proper grounds for departure from it is unlikely to have a good ground of appeal against a decision founded on the guidance.

36. I do not find the appellant's claim that he will be suspected or perceived as being a member of an organisation of adverse interest to the government sufficient to cause a real risk on return made out.

37. I do not find the appellant has made out that he has a significant history known to the authorities of membership or support, actual or perceived, or significant history will bring him to the adverse attention of the authorities in Ethiopia if returned.
38. I do not find the appellant has made out on the facts that he will be perceived as having anti-government agenda sufficient to create a real risk for him on return.
39. I do not find it is being made out that the appellant has established, even taking into account the prevailing situation in Eritrea, that he is any more than a failed asylum seeker and has not, as a result, established a real risk on return sufficient to entitle him to a grant of international protection.
40. In relation to the submission that he will face insurmountable obstacles to reintegration into Ethiopia, I find that submission without arguable merit on the facts. It is not made out the appellant cannot return and re-establish himself. His claims with regard to family members have been found to lack credibility. I have not been referred to sufficient evidence to show that all of the appellant's ethnic group face a real risk on return to Ethiopia. That is a fact specific issue.
41. I do not find the appellant has established a genuine adverse political profile that represents a fundamental aspect of his beliefs or presentation such that there would be any breach of the HJ (Iran) principle.
42. I do not find the appellant's established and sur place activities whether genuine or disingenuous that will give rise to a real risk on return.

Notice of Decision's

43. I dismiss the appeal.

C J Hanson

Judge of the Upper Tribunal
Immigration and Asylum Chamber

29 June 2023