



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2022-006459
First tier Number: PA/50951/2021

THE IMMIGRATION ACTS

Decision & Reasons Issued:

On 2nd of February 2024

Before

UPPER TRIBUNAL JUDGE LANE

Between

KH
(ANONYMITY ORDER MADE)

Appellant

and

Secretary of State for the Home Department

Respondent

Representation:

For the Appellant: Mr Wood
For the Respondent: Mr McVeety, Senior Presenting Officer

Heard at Manchester Civil Justice Centre on 12 December 2023

DECISION AND REASONS

1. The appellant is a male who has lived in Ethiopia and South Sudan. His assumed date of birth is 1 January 1992. He appealed to the First-tier Tribunal against a decision of the Secretary of State dated 16 February 2021 refusing him international protection. The First-tier Tribunal allowed his appeal. The Secretary of State now appealed to the Upper Tribunal. By a decision promulgated dated 15 August 2023, I set aside the decision of the First-tier Tribunal and directed a resumed hearing. At [7] I wrote:

I find that the decision of the First-tier Tribunal should be set aside. The judge's findings regarding the appellant's account of past events shall stand. The assessment of risk on return to both Ethiopia and South Sudan should be renewed after the appellant has approached the London embassies of both countries to make applications for entry and/or citizenship. The decision will be remade in the Upper Tribunal and both parties may adduce additional evidence provided that this evidence is filed at the Upper Tribunal and served on the other party no less than 10 days before the resumed hearing. The appellant shall also file and serve within the same time limit a witness

statement detailing his visits to the embassies and the outcome of the applications he will now make. The resumed hearing in the Upper Tribunal shall be listed for hearing not before 1 November 2023 to give the appellant time to arrange his visits and make the applications.

2. At the resumed hearing at Manchester on 12 December 2023, the appellant adopted his most recent witness statement. He was not cross examined. Since the initial hearing, the appellant has visited both the embassies of South Sudan and Ethiopia and had been told that he was not entitled to a passport or other national identity document by either state.
3. I accept that the evidence provided by the appellant was, by the standard of proof of reasonable likelihood, true and accurate. I am aware that such embassy visits rarely result in the issue of national identity documents to appellants. As regards the assessment of real risk on return, Mr McVeety told me that, if the appellant, of mixed race and in essence an outsider in both countries, tried to enter South Sudan or Ethiopia undocumented he would face exposure to a real risk of harm. I am satisfied that there is for the appellant no realistic prospect of his avoiding such a risk if he now attempts to enter either country. Consequently, I am satisfied that the appellant's appeal against the decision of the Secretary of State refusing him international protection should be allowed on asylum and Article 3 ECHR grounds.

Notice of Decision

I have remade the decision. The appellant's appeal against the decision of the Secretary of State dated 16 February 2021 is allowed on asylum and human rights (Article 3 ECHR) grounds.

C. N. Lane

Judge of the Upper Tribunal
Immigration and Asylum Chamber

Dated: 12 January 2024