



**Upper Tribunal
(Immigration and Asylum Chamber)**
AA/10544/2013

Appeal Number:

AA/10539/2013

AA/10540/2013

AA/10541/2013

AA/10542/2013

AA/10543/2013

THE IMMIGRATION ACTS

Heard at Newport

**On 10 July 2014
Delivered orally**

**Determination
Promulgated
On 21 July 2014**

Before

UPPER TRIBUNAL JUDGE GRUBB

Between

**WAAM
AAMA
NFBMA
MAM
AAAM
TAAM**

(ANONYMITY ORDER MADE)

Appellants

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellants: Mr I Palmer of Duncan Lewis Solicitors

For the Respondent: Mr I Richards, Home Office Presenting Officer

DETERMINATION AND REASONS

1. These appeals are subject to anonymity orders made by the First-tier Tribunal pursuant to rule 45(4)(i) of the Asylum and Immigration Tribunal (Procedure) Rules 2005 (SI 2005/230). Neither party invited me to rescind the order and I continue it pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 (SI 2008/2698).
2. The six appellants are a family consisting of husband and wife and their four children who arrived in the United Kingdom on 6 October 2013 and claimed asylum. They were born on 30 May 1962, 1 January 1973, 21 July 2001, 24 July 2003, 5 August 2006 and 14 January 2009 respectively.
3. They arrived in the UK on 6 October 2013 and claimed asylum. The basis of their claim is that they are Sudanese nationals belonging to the Berti tribe from the Darfur region and, as such, they would be at risk on return to Sudan.
4. In a decision dated 6 November 2013 the Secretary of State refused their claims for asylum and on 13 November 2013, in the case of each appellant, the Secretary of State made a decision refusing to grant leave indicating that directions would be made for the individual's removal to Sudan.
5. The appellants appealed to the First-tier Tribunal. Their appeals were heard on 20 February 2014 by Judge Britton. In his determination the Judge accepted that the appellants were Sudanese nationals and from the Berti tribe. However, he concluded that the appellants could safely and reasonably relocate within Sudan to Khartoum even if they were at risk in Darfur. As a consequence he dismissed the appeals on asylum and humanitarian protection grounds and also under Art 3 of the European Convention on Human Rights. He also dismissed the appellants' appeals under Article 8 of the ECHR.
6. The appellants sought permission to appeal to the Upper Tribunal. On 3 April 2014 the First-tier Tribunal (DJ Baird) granted the appellants permission to appeal on the basis that it was arguable that the Judge had erred in law in reaching his adverse findings on international protection grounds because he had failed to take into account an expert report produced by Mr Peter Verney and also the Country Guidance Case of AA (Non-Arab Darfuris - Relocation) Sudan CG [2009] UKAIT 00056. The appeals came before me.

7. At the outset of the hearing, Mr Richards who represented the Secretary of State, accepted that Judge Britton's determination could not stand first because he had failed to take into account the country guidance case of AA and secondly because the Secretary of State's own position which was in conflict with the Judge's conclusion that the appellants could safely and reasonably relocate to Khartoum. As a result, and having taken advice, Mr Richards accepted that I should conclude that the Judge's decision could not stand and that I should find that the appellants were entitled to refugee status on the basis of the Judge's finding that they all belonged to the Berti tribe. It was accepted that they could not return to their home area or safely and reasonably internally relocate within Khartoum.
8. I accept Mr Richards' submissions in respect of the proper outcome of these appeals. Consequently, I find:
 - (1) the First-tier Tribunal erred in law in failing to take into account the expert report and the CG case of AA;
 - (2) the appellants have established that there is a real risk that they would be subject to persecution for a Convention reason in Sudan as a result of belonging to the Berti tribe and that they cannot safely and reasonably relocate within Sudan.
9. The appeals are, accordingly, allowed under the Refugee Convention and Art 3 of the ECHR.

Decision

10. For those reasons the First-tier Tribunal's decision to dismiss each of the appellant's appeals on asylum grounds and under Article 3 of the ECHR involved the making of an error of law and cannot stand. Those decisions are set aside.
11. I remake the decisions allowing each of the appellant's appeal on asylum grounds and under Article 3 of the ECHR.

Signed

A Grubb
Judge of the Upper Tribunal

Date: