



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: PA/12050/2018

THE IMMIGRATION ACTS

Heard at Manchester CJC  
On 21 March 2019

Decision & Reasons Promulgated  
On 10 September 2019

Before

DEPUTY UPPER TRIBUNAL JUDGE CHAPMAN

Between

MR A H  
(ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Abraham, Solicitor of Fountain Solicitors  
For the Respondent: Mr Bates, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The Appellant is a national of Ethiopia born on 4 June 1993. He arrived in the UK and claimed asylum having entered clandestinely on 22 May 2018 on the basis that he had a well-founded fear of persecution in Ethiopia on the basis of his political opinion. This application was refused in a decision dated 1 October 2018 and the Appellant appealed against that decision. His appeal came before Judge of the First-tier Tribunal Warren for hearing in Manchester on 13 November 2018.
2. In a Decision and Reasons promulgated on 22 January 2019 the judge dismissed the appeal. Permission to appeal to the Upper Tribunal was sought in time on a number of grounds:-
  - (1) that the judge failed to make findings on a material aspect of the appeal, i.e. a letter from the Ethiopian Peace Commission;

- (2) that the judge failed to adequately assess the risk to the Appellant on account of his accepted *sur place* activities for GB7;
  - (3) in failing to provide adequate reasons for rejecting the credibility of the Appellant's account and in failing to make findings in relation to the Appellant's account of being arrested, detained and tortured in Ethiopia;
  - (4) in applying the wrong standard of proof at [3], i.e. reasonable probability rather than the lower standard of proof;
  - (5) in failing to give the appeal anxious scrutiny referring at [32](iv) to Bangladesh when the Appellant is a national of Ethiopia; and
  - (6) failing to make findings in respect of paragraph 276ADE(1)(vi) of the Immigration Rules.
3. Permission to appeal was granted by Upper Tribunal Judge Keith in a decision dated 16 July 2019 in general terms, but in particular with reference to grounds 2 and 3.

#### *Hearing*

4. At the hearing before the Upper Tribunal, Mr Bates submitted although there were aspects of the judge's decision he would defend he conceded that there had been inadequate reasoning in respect of ground 3 as to why the judge did not accept the Appellant had been arrested, detained and tortured and also in relation to the judge's findings concerning the Appellant's involvement with GB7 at [33]. He did not accept that there was an error in relation to the judge's application of the correct standard of proof as that had been remedied by [32] where the judge expressly made reference to the reasonable degree of likelihood and the real risk in asylum and human rights cases.
5. Mr Bates invited me to set the decision aside and to remit the appeal for a hearing *de novo* before the First-tier Tribunal. Mr Abraham on behalf of the Appellant was content for that to take place.

#### *Decision*

6. In light of Mr Bates's helpful concession, I find and agree there are material errors of law in the decision of First-tier Tribunal Judge Warren. The first and most striking aspect is that there is really only one paragraph of analysis of the appeal as a whole and that is at [33] and provides as follows:-

*"Having considered all of the evidence before me and having weighed its relative credibility, I conclude that the Appellant has not satisfied me on the lower standard of proof that he is genuinely in fear of persecution. His credibility has been impacted by having several months living in Greece, a safe place, when he had applied for asylum but then chose to leave. His account of his circumstances in Ethiopia is not supported other than by general information readily available in the public domain, and is entirely reliant on his own credibility, which I have found wanting. He claims to have come from a wealthy family in Ethiopia, and that his uncle paid a lot of money for his release and to facilitate his escape. He claims though to have had no contact with his uncle, his*

*mother or his sisters, or his wife and child since leaving. Of particular concern is that GB7 do not support his account of membership in Ethiopia, and provide a generic letter accounting for his activities in the UK, which has no bearing on his own evidence at all. I have therefore concluded that the Appellant is not credible, and his account cannot be relied upon. He has failed to satisfy me that it is reasonably likely that if returned to Ethiopia he would be persecuted for his political belief. I find as a fact from the photographs in the bundle that he has attended one meeting of GB7 in the UK – such sur place activity however was undertaken after the application for asylum, and at a time when he was not a member of the organisation in the UK.”*

7. I find that the Judge has not properly engaged with or provided sufficient reasons for rejecting the basis of claim in respect of the Appellant’s account of having been arrested, detained and tortured in Ethiopia. I further find that, given the basis of claim and the evidence before the judge, not only from the Appellant but the background supporting evidence, that GB7 is considered to be a designated terrorist group and any involvement with that organisation would potentially put the Appellant or any individual at risk on return to Ethiopia. In those circumstances I find that the judge should have engaged with that evidence and given further reasons as to why the Appellant’s attendance at a meeting, albeit only once, would not put him at risk, bearing in mind that whilst this was after the asylum claim had been made, it was before any decision had been made by the Respondent to refuse the claim.

*Decision*

8. I set the decision aside and remit the appeal for a hearing *de novo* before the First-tier Tribunal in Manchester. I make the following directions:
- (i) The appeal should be listed for two hours;
  - (ii) An Amharic interpreter should be provided;
  - (ii) Any evidence upon which the parties wish to rely should be submitted to the Tribunal and the other party five working days before the hearing.

**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 *Rebecca Chapman*

Date 9 September 2019

Deputy Upper Tribunal Judge Chapman