



**Upper Tribunal  
(Immigration and Asylum Chamber)**

Appeal Number: AA/07514/2015

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 29<sup>th</sup> January 2016**

**Decision & Reasons Promulgated  
On 1<sup>st</sup> February 2016**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE MANDALIA**

**Between**

**AA  
(ANONYMITY DIRECTION MADE)**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: No appearance

For the Respondent: Mr Kotas, Home Office Presenting Officer

**DECISION AND REASONS**

1. This is an appeal against a decision and reasons by First-tier Tribunal Judge Fox promulgated on 13<sup>th</sup> November 2015 in which he dismissed an appeal against a decision made by the Secretary of State on 16<sup>th</sup> April 2015 to refuse the appellant's claim for asylum.
2. The appellant is a minor now aged 17. Pursuant to Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 (SI 2008/269) I make an anonymity order. Unless the Upper Tribunal or a Court directs otherwise, no report of these proceedings or any form of publication thereof shall

directly or indirectly identify the original appellant. This direction applies to, amongst others, all parties. Any failure to comply with this direction could give rise to contempt of court proceedings.

3. There was no appearance by or on behalf of the appellant at the hearing before me. Notice of the hearing was sent to the appellant's representatives on 6<sup>th</sup> January 2016. I am satisfied that it is in the interests of justice to proceed with the hearing in the absence of the appellant's representatives.
4. The appellant is a national of Eritrea. Although the Judge states at paragraph [1] of his decision that "The appellant applied for asylum owing to a well founded fear of persecution in Albania.", in the same paragraph it is recorded that the convention reason relied upon by the appellant, is the imputed political opinion based upon the appellant's profile as a military service draft evader and his illegal exit from Eritrea.
5. In light of the very narrow issue in this appeal, I can deal with the matter in short form without rehearsing the background to the appeal. The sole ground of appeal is that it is clear from a reading of the decision as a whole and in particular the findings, that the Judge has mistakenly dismissed the appeal when it should have been allowed. In the grounds of appeal, the appellant invites the Tribunal to correct the error without the need for a further hearing. The appellant has appealed the decision rather than invite the First-tier Tribunal to correct a clerical mistake or accidental slip or omission under Rule 31 of the Tribunal Procedure (First-tier Tribunal) (Immigration and Asylum Chamber) Rules 2014.
6. Permission to appeal was granted by First-tier Tribunal Judge Andrew on 9<sup>th</sup> December 2015.
7. The respondent has filed a response dated 23<sup>rd</sup> December 2015 to the grounds of appeal under Rule 24. The respondent does not oppose the appeal and invites the Tribunal to correct the clerical error at the end of the determination.
8. I have carefully read the decision and it is plain from the findings set out at paragraphs [19] to [23] of his decision, that the Judge intended to allow the appeal. In fact, at paragraph [23], the Judge expressly states that "It follows that the appellant's claim must succeed upon the current country guidance" and "The appeal succeeds under Article 3 ECHR for the same reasons".
9. I find there to be an error of law and I re-make the decision, allowing the appeal for the same reasons given by First-tier Tribunal Judge Fox at paragraphs [19] to [23] of his decision.

### **Notice of Decision**

10. The decision of First-tier Tribunal Judge Fox promulgated on 13<sup>th</sup> November 2015 is set aside. The appeal is allowed on asylum and Article 3 grounds.

Signed

Date

Deputy Upper Tribunal Judge Mandalia