



**Upper Tribunal
(Immigration and Asylum Chamber)
PA/03345/2015**

Appeal Number:

THE IMMIGRATION ACTS

**Heard at Newport (Columbus
House)
On 20 June 2017**

**Decision & Reasons
Promulgated
On 05 July 2017**

Before

**UPPER TRIBUNAL JUDGE GRUBB
UPPER TRIBUNAL JUDGE STOREY**

Between

**A A I
(ANONYMITY DIRECTION MADE)**

Appellant

And

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr R Goodwin instructed by Albany Solicitors
For the Respondent: Mr S Kotas, Senior Home Office Presenting Officer

DECISION AND REASONS

- 1.** Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 (SI 2008/2698) we make an anonymity order. Unless the Upper Tribunal or Court directs otherwise, no report of these proceedings shall directly or indirectly identify the Appellant. This direction applies to both the appellant and to the respondent and a failure to comply with this direction could lead to Contempt of Court proceedings.
- 2.** The appellant is a citizen of Sudan who was born on 2 September 1997. He arrived in the United Kingdom on 13 August 2015 and claimed asylum. He claimed to be a non-Arab from Darfur from the Tama tribe. As a result, he claimed to be at risk on return to Sudan.

- 3.** On 19 November 2015, the Secretary of State refused the appellant's claims for asylum, humanitarian protection and under the ECHR.
- 4.** The appellant appealed to the First-tier Tribunal. In a determination sent on 15 July 2016 the First-tier Tribunal (Judges Davidge and Richards-Clarke) dismissed the appellant's appeal on all grounds. Although the panel accepted that the appellant was from Sudan they did not accept that he was a non-Arab from Darfur of the Tama tribe.
- 5.** The appellant sought permission to appeal to the Upper Tribunal. Although permission was initially refused by the First-tier Tribunal, on 13 September 2016 the Upper Tribunal (UTJ C Lane) granted the appellant permission to appeal.
- 6.** The two grounds of appeal were that the panel had failed to take into account supporting evidence linking the appellant to an IDP camp in Kalma which was relevant to the panel's assessment of the appellant's credibility. Further, the grounds argued that the panel had wrongly failed to give weight to the evidence of a witness called by the appellant who claimed to be a non-Arab from Darfur who had known the appellant in Sudan.
- 7.** Before us, Mr Kotas accepted that the panel had not had drawn to their attention evidence held by the Home Office, but not available to the Presenting Officer on the day of the hearing, that the appellant's witness had been granted refugee status on the basis that he was from a non-Arab Darfuri tribe.
- 8.** Whilst Mr Kotas raised the issue of whether any error by the First-tier Tribunal was material, it is clear to us that in assessing the appellant's credibility the Tribunal materially erred in law by failing to take into account the evidence supporting the appellant both in relation to his claimed period in an IDP camp and the supporting evidence of the witness who claimed he had lived with the appellant in that camp. Consequently, the Tribunal's adverse credibility finding and decision to dismiss the appellant's appeal on international protection grounds cannot stand and we set it aside.
- 9.** Both representatives indicated that the proper disposal of the appeal was to remit it to the First-tier Tribunal in order that the decision can be remade by a judge other than Judges Davidge and Richards-Clarke.
- 10.** Both representatives accepted that the Tribunal's positive finding that the appellant was from Sudan should be preserved and we direct that it is.
- 11.** Accordingly, the appellant's appeal to the Upper Tribunal is allowed and the appeal remitted to the First-tier Tribunal as set out above.

Signed

A Grubb
Judge of the Upper Tribunal
Date: 4 July 2017