



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

Appeal Number: PA/09877/2016

THE IMMIGRATION ACTS

**Heard at Bradford
On 10th July 2017**

**Decision & Reasons Promulgated
On 18th July 2017**

Before

DEPUTY UPPER TRIBUNAL JUDGE D E TAYLOR

Between

**TESFAYE GELESO
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms A Hashmi of Counsel, instructed by J D Spicer Zeb Solicitors

For the Respondent: Mr M Diwncyz, Home Office Presenting Officer

DECISION AND REASONS

1. This is the appellant's appeal against the decision of Judge Wilson made following a hearing at Bradford on 11th July 2017.

Background

2. The appellant claims to be a citizen of Eritrea born on 1st November 1987. He applied for asylum in the UK on the grounds that he would be at risk on return to Eritrea as a Pentecostal Christian. The respondent did not

believe that he was a citizen of Eritrea as claimed nor that any aspect of his claim to be a Pentecostal Christian was credible. The judge similarly made adverse credibility findings and dismissed the appeal.

The Grounds of Application

3. The appellant sought permission to appeal on the grounds that the judge had erred in his approach to credibility.
4. It was argued that the judge had erroneously found that the appellant had been inconsistent about the date of his entry to the UK, had made findings on his medical history to which he was not entitled, had erred in law in taking account of the appellant's demeanour and had wrongly taken a Section 8 credibility point against the appellant when this had not been raised by the respondent. He had also made a mistake of fact in relation to the letter of support from the Eritrean Community Organisation, failed to make proper findings in relation to the appellant's knowledge of Eritrean currency and had wrongly stated that there was no evidence to support the appellant's claim that he had knowledge of Tigrinya. Finally, he had not properly assessed the evidence of the witness and had not considered whether the appellant had been denied his Ethiopian nationality, which was an issue raised at the hearing and upon which he was obliged to adjudicate.
5. Permission to appeal was initially granted on limited grounds by Judge Robertson and then on all grounds by Upper Tribunal Judge Perkins.
6. On 7th June 2017 the respondent served a reply defending the determination.

Submissions

7. Ms Hashmi made detailed submissions in relation to all aspects of her grounds. Mr Diwncyz submitted that the judge's comprehensive findings were open to him.

Findings and Conclusions

8. I am satisfied that there is no material error of law in this determination.
9. First the appellant argues that the judge was wrong in considering at paragraph 12 of the determination that the appellant had given a number of inconsistent dates in relation to his entry to the UK. I am satisfied that this ground is in fact made out. One of the dates arises from a Home Office error and another was corrected at the beginning of the appellant's evidence when he adopted his statement. I accept that the appellant entered the UK on 12th June 2015 and this has always been his evidence. Accordingly the judge was wrong to highlight an inconsistency when there was none. However, in the context of this well-reasoned and detailed determination, the error is immaterial.

10. So far as the medical evidence was concerned, it was open to the judge to comment that the appellant's evidence lacked clarity and that there was no supporting evidence to support his claim that he suffered from a lack of sleep and depression. The mention of epilepsy at the hearing had never been raised before. The judge was entitled to conclude that the appellant's erratic evidence cast doubt upon his general truthfulness.
11. This, however, is of peripheral importance. None of the points raised by the judge in relation to the appellant's lack of knowledge of Pentecostal Christianity and his inability to name the church at which he claimed regular attendance were mentioned in the grounds. Moreover the judge recorded that the appellant had provided a conflicting account in relation to his practice of religion in Eritrea when he was interviewed. He also noted a number of examples of other inconsistencies which go to the core of the appellant's account, for example in relation to when the police had arrested him and whether he had preached his religion in Eritrea.
12. The third ground argues that the judge had erred in taking account of the appellant's demeanour in assessing his credibility. At paragraph 17 of the determination the judge records an incident in the hearing when the appellant apologised for his behaviour in appearing not to take the proceedings seriously. The judge said that he informed the appellant that he would note his behaviour but made it clear that it was not determinative either of the credibility of his claim or of his general credibility. That is entirely the correct approach. It is quite clear from the determination as a whole that the appellant's claim was properly analysed and not dismissed merely on account of the judge's perception of the appellant's behaviour in court.
13. Next, it is argued that the judge was wrong to take a Section 8 point against the appellant when it was not relied upon in submissions and he had claimed asylum very shortly after his arrival in the UK. However Section 8 was plainly relied upon in the reasons for refusal letter. It is manifestly relevant given that the appellant spent over two years in Italy when he was fingerprinted twice and apparently gave a different name and a different date of birth. He claimed asylum shortly after arrival in the UK, having been arrested upon embarkation from the lorry which brought him here. The judge's comment that he only claimed after arrest is merely a statement of fact.
14. So far as the banknote is concerned, at paragraph 20 the judge recorded that the appellant had given differing accounts of the colour of the note, at one point saying that it was orange and at another grey. He was quite entitled to highlight the discrepancy and was not obliged to make any finding upon the actual colour of the note concerned.
15. The grounds also criticise the judge's treatment of the appellant's claim that he speaks Tigrinya. The judge said that there was no evidence whatsoever to support the appellant's claim that he spoke or understood Tigrinya. The grounds argue that the judge failed to take into account the

appellant's own evidence on the issue and the letter from the Eritrean Community which he produced stating that he had a restricted knowledge of the language.

16. The wording in paragraph 32 is possibly a little loose but at paragraph 34 the judge made it clear that he considered that there was not "a shred of credible evidence" that he could speak the language. He gave wholly sustainable reasons for that conclusion.
17. At his initial interview he had said that he had no other language than Amharic. On the appellant's account he had lived in Eritrea from the age of 12 until he was 20. The judge was perfectly entitled to conclude that in the absence of any credible explanation to the contrary anyone living and working in his claimed country of origin during his formative years would be likely to acquire the language. There were significant discrepancies in the appellant's evidence in relation to whether his father and mother spoke Tigrinya to him and what his level of competency in the language was.
18. So far as the letter from the Eritrean Community is concerned, whilst the judge may have erred in considering that it was not produced until 11th January, when it appears that it was served on 16th December, the timing is immaterial. The judge analysed the contents of the letter in great detail from paragraphs 26 to 29 of the determination. He found that there was no reasonable explanation for the delay in the production of the letter for some sixteen months after the appellant's first visit but in any event the organisation was extremely vague about how it had been able to satisfy itself that the appellant was a national of Eritrea and was unspecific in relation to crucial matters. It made no reference to the names of any individuals who had made the nationality assessment and had not specified the process by which they had done so. There were no witness statements from anybody connected with the organisation. Moreover, there was a clear inconsistency between the letter which said that the appellant was raised and grew up in Ethiopia when on his own account he had been deported at the age of 12.
19. In relation to the evidence of the witness, the judge was entitled to give it little weight. He was not expected at the hearing and had not produced a witness statement. No checks had been made on his bona fides. He produced no supporting evidence of the appellant's claimed church attendance and provided no information about how he knew that the appellant was a member of the Pentecostal church other than his assertion that he had attended there. Moreover, the witness himself gave discrepant and surprising evidence in relation to his own position. He had apparently been granted asylum on the basis of being a Pentecostal Christian and yet said that he had been to Eritrea since coming to the UK before denying that he had ever been back.
20. So far as the question of Ethiopian nationality is concerned, the respondent's representative apparently had a copy of the passport

application in the appellant's name for an Ethiopian passport. There was absolutely no evidence that he has ever been denied Ethiopian nationality. The judge gave detailed and sustainable reasons for concluding that the appellant had never attended the Ethiopian Embassy in London as claimed from paragraphs 35 to 37 of the determination.

21. The grounds establish that there are minor errors in this determination in relation to the appellant's arrival date and the filing of the letter from the Eritrean Community in Lambeth. However in the context of an exceptionally thoughtful and well-reasoned determination these are immaterial. The judge gave clear and comprehensive reasons for concluding that the appellant's oral evidence was contradictory and implausible, many of which are not challenged in the grounds, which highlight minor matters having no impact upon the sustainability of the judge's conclusions.

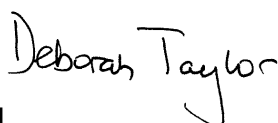
Decision

22. The original judge did not err in law. The appellant's appeal is dismissed.

Notice of Decision

The appeal is dismissed on all grounds.

No anonymity direction is made.



Signed

Date 18 July 2017

Deputy Upper Tribunal Judge Taylor