



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

Appeal Number: AA/03929/2015

THE IMMIGRATION ACTS

Heard at Centre City Tower, Birmingham

Decision & Reasons

On 16th April 2018

**Promulgated
On 26th April 2018**

Before

DEPUTY UPPER TRIBUNAL JUDGE M A HALL

Between

**K G T
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr J Howard of Fountain Solicitors

For the Respondent: Mrs H Aboni, Senior Home Office Presenting Officer

DECISION AND REASONS

Introduction and Background

1. The Appellant appeals against the decision of Judge Pooler (the judge) of the First-tier Tribunal) (the FTT) promulgated on 15th June 2017.
2. The Appellant is a female national of Ethiopia born [] 1984. The Appellant entered the UK on 29th October 2013 illegally and claimed asylum. Her asylum claim is based upon her political opinion and support for the Oromo Liberation Front (OLF). The Appellant has a daughter born in the

UK on [] 2016. She has no contact with the father of her child, an Ethiopian national with no status in the UK.

3. The application for international protection was refused on 27th February 2015. The Appellant's appeal was heard by the FTT (Judge Colyer) on 2nd October 2015 and dismissed but this decision was set aside by the Upper Tribunal and remitted back to the FTT to be heard afresh.
4. The judge heard the appeal on 12th June 2017 and the appeal was dismissed on all grounds. The judge did not find the Appellant to be a credible witness. The judge was not satisfied that the Appellant had ever been of adverse interest to the authorities in Ethiopia as a person suspected of OLF involvement, and although the judge accepted that the Appellant may have attended a small number of OLF meetings in the UK, in 2015, he was not persuaded that she was ever a genuine supporter of the OLF and was not satisfied that she would be perceived by the authorities in Ethiopia to be a member or sympathiser of the OLF. The judge was not satisfied that the Appellant had ever been arrested or detained in Ethiopia, and did not accept that an arrest warrant had been issued.
5. The judge found that the Appellant would be returning to Ethiopia as a single woman with a child, and that she had family support in Ethiopia, and medical treatment was available to treat her diagnosis of HIV.
6. Following dismissal of her appeal the Appellant applied for permission to appeal relying upon three grounds which are summarised below.
7. Firstly, it was contended that the judge had erred by failing to adequately consider background material. The judge had found that the Appellant had attended a small number of OLF meetings in the UK, most of which were in 2015, and reference was made to the Respondent's Operational Guidance Note of November 2013 which indicated that mere sympathisers and perceived members of OLF are likely to be at risk of persecution. It was contended that the judge had not adequately considered the persecutory risk that the Appellant faced on return to Ethiopia in the light of her OLF involvement and had not adequately assessed the risk of the Appellant being stopped on arrival at Addis Ababa Airport.
8. The second ground contends that the judge erred by failing to adequately consider whether the Appellant formed a particular social group given that she would be returning to Ethiopia as a single woman with a child and had failed to consider whether she would be at persecutory risk on that basis. This was significant as the judge had accepted that the Appellant is a vulnerable adult.
9. The third ground contends the judge erred by failing to give adequate reasons for not accepting that an arrest warrant was issued in respect of the Appellant. In addition, the judge failed to give sufficient reasons as to why it was not accepted that there would be very significant obstacles to

the Appellant's integration if returned to Ethiopia in accordance with paragraph 276ADE(1)(vi) of the Immigration Rules.

10. Permission to appeal was granted by Judge Bird and I set out in part the grant of permission;
 - "2. The Appellant seeks permission to appeal against this decision on the grounds that the judge made an arguable error of law in failing to adequately consider the background material. It is alleged that the background material stated that even sympathisers or perceived members of the OLF are likely to be at risk of persecution.
 3. The judge considered the background evidence at paragraphs 20 and 21 of the determination. He set out the country guidance decision in MB (OLF and MTA - risk) Ethiopia CG [2007] UKAIT 00030 at paragraph 22. The judge in assessing the Appellant's claim that she was a sympathiser of OLF failed to properly consider the evidence that he heard from the two witnesses who attended the hearing. The judge failed to state at paragraph 27 why the evidence that was contained in the statements from both Dr Berri and Mr Afako noted by the judge at paragraphs 14 and 15 was not credible. Both statements were consistent in saying that the Appellant had attended OLF meetings on 31 January, March, April and August 2015. The judge has failed to adequately reason his conclusion that this evidence could not be relied on. An arguable error of law has arisen.
 4. The grounds further allege that the Tribunal failed to give adequate reasons for not accepting that the arrest warrant that had been issued for the Appellant was genuine.
 5. The Appellant's evidence in relation to the arrest warrant is considered at paragraph 31. The judge has failed to give adequate reasons for finding that the arrest warrant was not genuine. The judge has made an arguable error of law."
11. Following the grant of permission, the Respondent lodged a response pursuant to rule 24 of the Tribunal Procedure (Upper Tribunal) Rules 2008. In summary it was contended that the judge had directed himself appropriately and it was clear that the appeal had failed due to the various discrepancies in the Appellant's account in combination with her failure to claim asylum in either Italy or France. The expert report, which the judge took into account, could not cure the deficit in the Appellant's case. The reasoning of the judge was adequate and the Appellant could clearly see why she lost the appeal.
12. Directions were issued that there should be a hearing before the Upper Tribunal to ascertain whether the judge had erred in law such that the decision should be set aside.

The Oral Submissions

13. Mr Howard relied upon the grounds contained within the application for permission to appeal. He conceded that the judge granting permission

had erred at paragraph 3 in referring to the two witnesses attending the hearing. The witnesses had not attended the hearing, but had provided written statements.

14. It was submitted that the judge had not properly taken into account the background material, and had not placed appropriate weight on the statements given by the witnesses, which confirmed that the Appellant had attended OLF meetings in the UK.
15. Mr Howard did not pursue the second ground of appeal. With reference to the third ground, Mr Howard submitted that inadequate reasons had been given by the judge for not accepting that an arrest warrant had been issued, and not accepting that there would be no very significant obstacles to integration into Ethiopia.
16. Mrs Aboni relied upon the rule 24 response and submitted that the judge had directed himself appropriately and given adequate reasons for findings. It was submitted that the judge was entitled to place limited weight on statements, when the authors of those statements had not attended the hearing. There was no evidence that the Appellant had undertaken any activities such as attending OLF meetings after 2015.
17. It was submitted that the judge had given adequate reasons for concluding that an arrest warrant had not been issued, and had noted that the Appellant had returned to Ethiopia in 2012. In addition she had initially failed to mention that an arrest warrant had been issued.
18. By way of response, Mr Howard pointed out that the Appellant had explained that she did not attend OLF meetings in the UK after 2015 because of the birth of her child.
19. At the conclusion of oral submissions I reserved my decision.

My Conclusions and Reasons

20. I do not find any merit in the first ground of appeal. I do not find that the judge failed to adequately consider background material. At paragraph 19 the judge makes specific reference to assessing the Appellant's account in the light of the background evidence. At paragraph 20 the judge sets out in part the Respondent's Country Information and Policy Note - Ethiopia - Opposition to the Government of 7th December 2016, to which he was referred by Mr Howard.
21. At paragraph 21 the judge sets out further background evidence provided by Amnesty International and Human Rights Watch.
22. At paragraph 22 the judge sets out the headnote to the appropriate country guidance decision, that being MB Ethiopia CG [2007] UKAIT 00030.
23. In my view, it is clear from reading the FTT decision, that the judge has carefully considered the background evidence and appropriate case law.

The judge was entitled to place limited weight upon written evidence when the authors of that evidence had not attended the hearing to answer questions. It is clear that the judge considered the written evidence provided by Dr Berri and Mr Afako but did not err at paragraph 27 when noting that neither was called to give oral evidence, which limits the weight that can be placed on their written evidence. The judge did not err at paragraph 34 in recording that no OLF member or official attended the hearing in order to give supporting evidence on behalf of the Appellant, when such evidence could have been adduced without danger or undue difficulty.

24. The judge recorded at paragraph 19 “the need to be cautious before reaching an adverse credibility finding and that an Appellant may find it difficult to call witnesses or produce documents, particularly in relation to events which occurred in her country of origin.” With that in mind, the judge properly assessed the credibility of the Appellant’s account, including the inconsistencies relied upon by the Respondent. In my view, the judge gave adequate and sustainable reasons for finding the Appellant not to be a credible witness. This included her failure to claim asylum in France, and the fact that she returned to Ethiopia after her initial departure.
25. For the reasons given above, I do not find that the first ground of appeal discloses any material error of law.
26. Ground 2 was not pursued by Mr Howard, and in my view, rightly so. There is no merit in this ground. The judge clearly appreciated that the Appellant would be returning to Ethiopia as a single woman with a child, as this is specifically recorded at paragraph 39, with the judge finding that she would have extended family support. The judge recorded that his attention was not drawn to any objective evidence suggesting that a single woman with a child, with extended family support, would face difficulties.
27. With reference to the arrest warrant, it is common ground that if an Appellant produces a document, the Appellant must show that the document can be relied upon, and a decision maker should consider the evidence in the round. That is what the judge has done in this case. The judge considered the inconsistencies in the Appellant’s account, and was aware of the need to exercise caution before making an adverse credibility finding. The judge was entitled to note that the Appellant had not mentioned an arrest warrant in her screening interview even when specifically questioned about this. In addition, there was no mention of the arrest warrant in her initial witness statement.
28. The judge has given adequate reasons for concluding that an arrest warrant was not issued, and also given adequate reasons for concluding that the Appellant would not face very significant obstacles to integration if she returned to Ethiopia. The judge considered this issue at paragraphs

38 - 41, and did not err in finding that the evidence submitted on behalf of the Appellant failed to discharge the burden of proof.

29. I conclude that the grounds submitted on behalf of the Appellant, disclose a disagreement with the conclusions reached by the judge, but do not disclose a material error of law.

Notice of Decision

The decision of the FTT does not disclose an error of law. I do not set aside the decision. The appeal is dismissed.

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 the Appellant or any member of her 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

Date

Deputy Upper Tribunal Judge M A Hall

17th April 2018

**TO THE RESPONDENT
FEE AWARD**

The appeal is dismissed. There is no fee award.

Signed

Date

Deputy Upper Tribunal Judge M A Hall

17th April 2018