



**Upper Tribunal
(Immigration and Asylum Chamber) Appeal Numbers: PA/01625/2017**

THE IMMIGRATION ACTS

**Heard at Manchester
On December 22, 2017**

**Decision & Reasons
Promulgated
On January 08, 2018**

Before

DEPUTY UPPER TRIBUNAL JUDGE ALIS

Between

**MR KALAB HAILU
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Dr Mynott (Legal Representative)

For the Respondent: Mr McVeety, Senior Home Office Presenting Officer

DECISION AND REASONS

1. I do not make an anonymity direction in this matter.
2. The appellant is a citizen of Eritrea. He entered the United Kingdom on August 25, 2015 and claimed asylum. The respondent refused his application on January 31, 2017.
3. The appellant appealed that decision on February 15, 2016 and the appeal came before Judge of the First-tier Tribunal Alty (hereinafter called the

Judge) on March 16, 2017. In a decision promulgated on March 24, 2017 the Judge dismissed the appeal on all grounds.

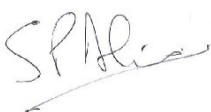
4. The appellant appealed that decision on April 7, 2017 arguing the Judge failed to explain why the appellant's lack of credibility outweighed the credibility of the witness who had given evidence at the hearing in which he stated he knew the appellant from Eritrea. Permission to appeal was given by Designated Judge of the First-tier Tribunal McCarthy on August 14, 2017.
5. The case came before me on the above-date.
6. Dr Mynott adopted the grounds of appeal and submitted that at [32] of the Judge's decision she set out the evidence given by the witness but then rejected that evidence because she was not persuaded over the appellant's own credibility. Additionally, at [31] the Judge wrongly summarised paragraph 339L HC 395 because she failed to have regard to "other evidence".
7. Mr McVeety referred me to [32] and conceded that the Judge made no findings on the evidence from the witness. He accepted it was incumbent upon the Judge to make findings on crucial evidence and he accepted the Judge did not do this.
8. Having considered [32] of the Judge's decision I concluded that whilst the Judge set out the evidence from the witness she did not actually say whether she accepted it or rejected it. The evidence is very important because if the evidence was accepted then it would be incumbent on the Judge to explain why she then did not find the appellant to be a credible witness.
9. Unfortunately in this case, the Judge neither accepted nor rejected the witness evidence and this undermined her subsequent findings.

NOTICE OF DECISION

10. The making of the decision of the First-tier Tribunal did involve the making of an error on a point of law. I remit the appeal back to the First-tier Tribunal for a fresh hearing on this issue as both parties agreed this was a matter that needed full findings. No findings are preserved.

Signed

Date 22/12/2017



Deputy Upper Tribunal Judge Alis

TO THE RESPONDENT
FEE AWARD

No fee award was made as not fee was paid.

Signed

Date 22/11/2017

A handwritten signature in black ink, appearing to read 'SPAL' with a flourish underneath.

Deputy Upper Tribunal Judge Alis