



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: PA/05579/2016

THE IMMIGRATION ACTS

Heard at Bradford
On 25th January 2018

Decision & Reasons Promulgated
On 26th January 2018

Before

UPPER TRIBUNAL JUDGE MARTIN

Between

U M A
(ANONYMITY DIRECTION MADE)

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr T Hussain (instructed by Halliday Reeves Law Firm)

For the Respondent: Miss R Petterson (Senior Home Office Presenting Officer)

DECISION AND REASONS

1. This is an appeal to the Upper Tribunal by the Appellant, with permission, in relation to a Decision and Reasons of Judge Caswell following a hearing at Bradford on 27th January 2017. In a Decision and Reasons promulgated on 3rd February 2017 the appeal was dismissed on all grounds.
2. The Appellant is a citizen of Ethiopia who claimed asylum on the basis that he is an ethnic Oromo; that his father was a member of OLF and was killed by the Government in 2003; that he himself had been attacked by Government forces and

left for dead; that he was a member of OLF in Ethiopia and delivered leaflets and that he was wanted by the authorities who had been to his home looking for him. Also he had been involved with the OLF in the UK and would be at risk on return.

3. The Judge noted that the issue in the appeal was credibility; if credible the Appellant was entitled to succeed.
4. She found however that the Appellant had consistently failed to give a clear account of events, pointing to numerous inconsistencies. She noted that in oral evidence he gave vague, evasive and contradictory answers; claimed that he had memory problems without any medical evidence; that a letter of support was based only on a telephone interview and recited what the Appellant had told the author and was expressed in vague terms. Apart from the Appellant there were no other witnesses.
5. For those reasons the Judge found the Appellant had not been involved with the OLF in Ethiopia, that his father had not been killed by the Government and that he himself had not been attacked.
6. Those findings were not challenged.
7. The grounds upon which permission to appeal was granted and argued before me related to the Appellant's sur place activities and the Judge's conclusions in relation to them.
8. The Judge accepted that the Appellant had attended a London demonstration. She found the Appellant's presence at a fund raising event would not bring him to the attention of the authorities. She found when he left Ethiopia he was of no interest and they would have no reason to be interested in him now and would not be aware of his very minor involvement in the UK. She also said that if questioned the Appellant could either deny involvement or be truthful and say that he had attended only to bolster a false asylum claim and that in truth he had no affiliation with the OLF.
9. Mr Hussein argued that the Judge had not applied the Country Guidance case of MB (OLF & MTA - risk) Ethiopia CG [2007] UKAIT 00030. He argued that the Ethiopian authorities made no distinction between low level sympathisers and high profile activists and if the Judge had followed the guidance she would have found the Appellant at risk on return.
10. The head note to MB reads as follows:-
 - (1) *As at February 2007, the situation in Ethiopia is such that, in general:-*
 - (a) *Oromo Liberation Front members and sympathisers;*
 - (b) *persons perceived to be OLF members or sympathisers; and*
 - (c) *members of the Maccaa Tulema Association;*

will, on return, be at real risk if they fall within the scope of paragraph (2) or (3) below.

(2) OLF members and sympathisers and those specifically perceived by the authorities to be such members or sympathisers will in general be at real risk if they have been previously arrested or detained on suspicion of OLF involvement. So too will those who have a significant history, known to the authorities, of OLF membership or sympathy. Whether any such persons are to be excluded from recognition as refugees or from the grant of humanitarian protection by reason of armed activities may need to be addressed in particular cases.

(3) Given the proscription of the MTA and the current state of tension on the part of the Ethiopian authorities, the Tribunal considers that MTA members will also be at real risk on return if they have previously been arrested or detained on suspicion of MTA membership and/or of OLF membership or are known or suspected of membership of the MTA. Despite the banning of the MTA, the Tribunal does not consider that the evidence is such as to show a real risk where the extent of the authorities' knowledge or suspicion about an individual relates to something less than membership of the MTA.

11. The fact that the Judge found that the Appellant was not an OLF member or sympathiser and that his minimal activity in the UK, which would not be known by the Ethiopian authorities, meant that the Appellant would not be perceived as such.
12. Paragraph 2 of the head note indicates such people would be at risk **if** (my emphasis) they have been previously arrested or detained. On the Judge's findings the Appellant had not and thus would not be at risk. Her conclusions were in line with the Country Guidance case.
13. The Decision and Reasons contains reasoned findings, properly open to the Judge on the evidence and in line with the Country Guidance case. It contains no error of law.

Notice of Decision

The appeal to the Upper Tribunal is dismissed.

Anonymity Direction

Unless and until a Tribunal or court directs otherwise, the Appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify him or any member of their family. Failure to comply with this direction could lead to contempt of court proceedings.

Signed

Date 25th January 2018

Upper Tribunal Judge Martin