



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: PA/11097/2017

THE IMMIGRATION ACTS

Heard at Glasgow
On 2 August 2018

Determination issued
On 10 August 2018

Before

UPPER TRIBUNAL JUDGE MACLEMAN

Between

MAHASEN [A]

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Miss L Irvine, Advocate, instructed by Loughran & Co, Solicitors

For the Respondent: Mrs M O'Brien, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. FtT Judge S Gillespie dismissed the appellant's appeal by a decision promulgated on 6 December 2017.
2. The appellant's grounds of appeal to the UT are as stated in her application for permission to appeal dated 20 December 2017:
 - (i) error in relying on appellant's inability to speak the language of the Massaleit tribe;

(ii) error as to evidence of two witnesses regarding the appellant's membership of the Massaleit tribe; and

(iii) failure to consider evidence of the appellant having previously come to attention of the Sudanese authorities.

3. Mrs O'Brien did not concede grounds (i) and (iii), and she did not accept on ground (ii) that the refugee status of the two witnesses endorsed their reliability, as had been submitted to the FtT. However, she said that even if the judge was right at paragraph 40 to say that their status "neither supports their evidence nor detracts from it", the judge set out no reason for giving it only "limited weight". She suggested that the outcome should be as follows, and Miss Irvine agreed on behalf of the appellant.
4. The decision of the FtT is **set aside**. It stands only as a record of what was said at the hearing.
5. The nature of the case is such that it is appropriate under section 12 of the 2002 Act and Practice Statement 7.2 to remit to the FtT for an entirely fresh hearing.
6. The member(s) of the FtT chosen to consider the case are not to include Judge Gillespie.
7. No anonymity direction has been requested or made.

A handwritten signature in black ink that reads "Hugh Macleman". The signature is written in a cursive style with a large, stylized initial 'H'.

2 August 2018
Upper Tribunal Judge Macleman