



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

Appeal Number: PA/02378/2018

THE IMMIGRATION ACTS

**Heard at Field House
On 4 November 2019**

**Decision & Reasons
Promulgated
On 8 November 2019**

Before

**HHJ STACEY
(SITTING AS A JUDGE OF THE UPPER TRIBUNAL)
UPPER TRIBUNAL JUDGE PITT**

Between

**MR A H I
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms E Rutherford, Counsel, instructed by Rodman Pearce Solicitors

For the Respondent: Ms R Bassi, Senior Home Office Presenting Officer


DECISION AND REASONS

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 him or any member of his 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.

1. This is an extempore decision.
2. This is an appeal against the decision of First-tier Tribunal Judge James promulgated on 30 August 2018. The decision of Judge James refused the appellant's appeal on asylum and human rights grounds finding that notwithstanding that he was a non-Arab Darfuri he would not be at risk on return to Sudan.
3. The appellant challenged the decision of First-tier Tribunal Judge James and in a decision dated 1 October 2018 was granted permission to appeal to the Upper Tribunal by First-tier Tribunal Judge Lambert who identified a potential error of law concerning the proper application of the country guidance on non-Arab Darfuris contained in **AA (non-Arab Darfuris - relocation) Sudan** CG [2009] UKAIT 00056 and **MM (Darfuris) Sudan** CG [2015] UKUT 00010 (IAC).
4. Ms Bassi gave a helpful indication for the Secretary of State that it was accepted that the decision of First-tier Tribunal Judge James disclosed a material error on a point of law. It was accepted by the Secretary of State that the correct country guidance that had to be applied to the appellant's circumstances where he was undisputedly a non-Arab Darfuri was that contained in **AA** and **MM** and that the guidance within another case on Sudan, that of **IM and AI (Risks - membership of Beja Tribe, Beja Congress and JEM) Sudan CG [2016] UKUT 00188 (IAC)** did not address the situation for non-Arab Darfuris. The Secretary of State also accepted that the Country Guidance in **AA** and **MM** on non-Arab Darfuris had been confirmed recently by the Upper Tribunal in the cases of **AAR & AA (Non-Arab Darfuris - return) Sudan [2019] UKUT 00282 (IAC)**.
5. Ms Bassi confirmed that the respondent accepted that the appeal should be remade as allowed.
6. The concessions made by the Secretary of State at the hearing were in line with the preliminary view that the Upper Tribunal had reached independently on the papers and therefore for the same reasons we find a material error of law in the decision of the First-tier Tribunal, set it aside and remake the appeal as allowed.

Signed: 
2019
Upper Tribunal Judge Pitt

Date: 4 November