



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

Appeal Number: PA/11003/2018

THE IMMIGRATION ACTS

**Heard at Bradford
On 4 JUNE 2019**

**Decision & Reasons Promulgated
On 10 June 2019**

Before

UPPER TRIBUNAL JUDGE LANE

Between

**WAGNEW [K]
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms Sanders, instructed J D Spicer Zeb, solicitors

For the Respondent: Mrs Pettersen, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant was born on 6 July 1982 and is a citizen of Ethiopia. By a decision promulgated on 7 February 2019, the First-tier Tribunal dismissed the appellant's appeal against the decision of the Secretary of State dated 31 August 2018 to refuse him international protection. The appellant now appeals, with permission, to the Upper Tribunal.
2. I am satisfied that the First-tier Tribunal erred in law such that its decision falls to be set aside. I notified representatives of my decision at the initial hearing. I find that the judge has misunderstood the evidence or

mischaracterised it in a way which undermines his findings of fact. At [30], the judge wrote:

“When questioned at his asylum interview, the appellant indicated initially that he had never been part of a political organisation. What he attempted, with the interpreter’s assistance, to clarify at a later stage was that he meant he had not been a member or supporter of PG7 at the time of the Kebele Community meeting and, indeed, was inspired to support the organisation in March 2015 subsequent to the described events in January 2015. I do not find it credible that having been asked, very clearly in my view, about his involvement in political or government organisations, he would not have answered in the affirmative irrespective of when and how he joined the PG7 organisation. The fact that he did not lead to beat doubt his claim that he did join your organisation when in Ethiopia.”

3. I assume, as do the parties, that the judge is referring here to the asylum interview record. The questioning at that interview opens with a number of questions about the appellants health and family members. Then, at Question 13, the appellant is asked, ‘Please briefly explain why you cannot return to Sudan? We will cover this further at a later stage in the interview.’ The appellant replied, ‘as a supporter of PG7 I cannot possibly return there as I could be a victim and that’s the very reason why I run away from that country to seek safety.’
4. It is not possible to reconcile this unequivocal answer at the outset of the interview with what the judge says at [30]. The judge has misunderstood the documentary evidence and has, in consequence, commenced his analysis of credibility by identifying an inconsistency in the appellant’s evidence which did not exist. The judge was, of course, required to consider all the evidence as a whole; as a result, it is simply not possible to isolate any particular finding from the tissue of the analysis. I find that the judge’s analysis as a whole has been vitiated by his error. The grounds go on to draw attention to other factual errors in the judge’s analysis which Mrs Pettersen, who appeared at the initial hearing for the Secretary of State, did not seek to dispute. I find grounds as a whole have been made out and that the decision of the First-tier Tribunal should be set aside. As the errors lie at the heart of the credibility analysis, none of the findings of fact shall stand. There will need to be a new fact-finding hearing which is better conducted in the First-tier Tribunal. I returned the appeal to that Tribunal for it to remake the decision at or following a *de novo* hearing.

Notice of Decision

The decision of the First-tier Tribunal which was promulgated on 7 February 2019 is set aside. None of the findings of factual stand. The appeal is returned to the First-tier Tribunal (not Judge Raikes) for the Tribunal to remake the decision.

Signed

Date 5 June 2019

Upper Tribunal Judge Lane