



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

Appeal Number: PA/11193/2017

**THE IMMIGRATION ACTS**

**Determined at Field House without a  
hearing  
On 28 November 2019**

**Decision & Reasons  
Promulgated  
On 29 November 2019**

**Before**

**UPPER TRIBUNAL JUDGE RINTOUL**

**Between**

**N M M E  
(ANONYMITY ORDER MADE)**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**DECISION AND REASONS**

**1.** On 11 November 2019 I gave the following directions:-

“1. It is my preliminary view that, on consideration of the grounds of appeal, that the First-tier Tribunal’s decision involved the making of an error of law in failing to follow the established case law with respect to the appellant as a member of the Berti tribe, and so a non-Arab Darfuri. That position is reinforced by the more recent country guidance decision, AAR & AA (Non-Arab Darfuris - return) Sudan [2019] UKUT 282 (IAC), handed down on 10 July 2019 confirming the applicability of earlier guidance.

2. In MM (Darfuris) Sudan CG [2015] UKUT 10 (IAC) the guidance given was:

*In the country guidance case of AA (Non-Arab Darfuris-relocation) Sudan CG [2009] UKAIT 00056, where it is stated that if a claimant from Sudan is a non-Arab Darfuri he must succeed in an international protection claim, "Darfuri" is to be understood as an ethnic term relating to origins, not as a geographical term. Accordingly it covers even Darfuris who were not born in Darfur.*

3. Accordingly, and in the light of the unchallenged finding that the appellant is a member of the Berti tribe, I propose to set the decision aside and to remake the decision, allowing the appeal on asylum and human rights grounds (article 3) without the need for an oral hearing.
4. Unless within **ten working days** of the issue of these directions there is any written objection to this course of action, supported by cogent argument, the Upper Tribunal will proceed to determine the appeal without an oral hearing and will substitute a decision allowing the appeal on asylum and human rights grounds.
5. In the absence of a timely response by a party, it will be presumed that it has no objection to the course of action proposed."

2. On 27 November 2019, the respondent wrote to the Upper Tribunal stating that they accept that the decision of the First-tier Tribunal involved the making of an error of law and inviting the Upper Tribunal to allow the appeal on the basis that the appellant has a well founded fear of persecution.
3. In the circumstances, I am satisfied that the decision of the First-tier Tribunal did involve the making of an error of law and I set it aside. I remake the decision by allowing the appeal on asylum grounds.

### **Summary of conclusions**

1. The determination of the First-tier Tribunal did involve the making of an error of law and I set it aside.
2. I remake the decision by allowing the appeal on asylum grounds

Signed

Date: 28 November 2019

A handwritten signature in black ink, appearing to read 'James Rintoul'. The signature is fluid and cursive, with the first name 'James' written in a larger, more prominent script than the last name 'Rintoul'.

Upper Tribunal Judge Rintoul