Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: PA/11957/2018

THE IMMIGRATION ACTS

Heard at Field House	**Decision & Reasons Promulgated**
On 2 September 2019	**On 15 January 2020**

Before

UPPER TRIBUNAL JUDGE PERKINS

Between

A S
(ANONYMITY DIRECTION MADE)

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:
For the Appellant: Mr K Makerjee, Counsel instructed by Davjunnel Solicitors
For the Respondent: Mr E Tufan, Senior Home Office Presenting Officer

DECISION AND REASONS

1. Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 I make an order prohibiting the disclosure or publication of any matter likely to lead members of the public to identify the Respondent. Breach of this order can be punished as a contempt of court. I make this order because the appellant is an asylum seeker and is entitled to privacy.

2. This is an appeal by a citizen of Ethiopia born in July 2000 against a decision of the First-tier Tribunal dismissing his appeal against a decision of the Secretary of State refusing him asylum or other former kind of international protection. Permission to appeal was given by the First-tier Tribunal because:

> "It is arguable that the judge failed to make findings in relation to the appellant's account of events in Ethiopia and/or, as the grounds assert at (a), failed to give adequate reasons for findings; failed to take account of the expert psychological report; and failed to take into account or give adequate reasons for rejecting evidence of *sur place* activity. Moreover as the grounds also submit, it is arguable that the judge failed to consider the evidence in the round. All grounds may be argued."

3. Mr Makerjee adopted the grounds and submitted that the Decision and Reasons is fundamentally unsatisfactory and the appeal had to be heard again. Having reflected on the matter I have come to the conclusion that Mr Makerjee was right.

4. In summary it is the appellant's case that he has been severely ill-treated by the authorities in Ethiopia because of his political activity and since fleeing to the United Kingdom he has associated himself with a political organisation known as Ginbot 7 and would be at risk on return because of his perceived opposition to the government.

5. I am satisfied from the background evidence that if this claim is established then it is sufficiently cogent for it to be at least be arguable that the appellant needs protection.

6. The First-tier Tribunal disbelieved the appellant's evidence about his commitment to Ginbot. Certainly his evidence of involvement with Ginbot in the United Kingdom was decidedly scanty and he failed to answer questions that an ordinarily healthy supporter could have been expected to answer if he were indeed committed to the cause.

7. The difficulty is that the appellant has produced evidence that he suffers from post-traumatic stress disorder which is known sometimes to make it difficult for patients to give clear histories or even have a clear recollection of events.

8. This is a case where there is a supporting report from Dr Monica Carter. Although she is a general rather than consulting medical practitioner she has an interest in and experience of asylum seekers and claimed victims of torture. Her conclusions were that the appellant had been ill-treated and the injuries on his body were "typical" and in some cases "highly consistent" with the declared causes. Overall she found the combination of symptoms:

> "Congruent with the stated history and does not give rise to any clinical suspicion of fabrication. The clinical picture does not suggest a false allegation of trauma."

9. It is unclear what the judge made of this evidence. What ought to have happened is the judge should have considered it and either accepted it or given proper reasons for not accepting it and, if he chose to accept it, that would probably have been a sensible starting point for assessing the rest of the evidence. This has not happened. Rather the judge, exactly as criticised in the grounds and in the summary for giving permission to appeal, concentrated on unsatisfactory evidence about sur place activity and rather lost sight of the evidence which might provide an explanation for his fears of return and inability to be a better historian.

10. I have reminded myself of the quality of the medical evidence and the low standard of proof but I do not think it appropriate to simply substitute a decision. The evidence needs to be heard and analysed properly.

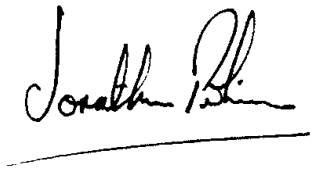
11. Mr Tufan sought to defend the decision and although he was able to make, with respect, entirely sensible submissions concerning the consequences of the findings that had been made he could not deal with the underlying problem of the failure to take proper account of the medical evidence confirming the history of ill-treatment in Ethiopia.

12. This appeal has to be heard again and I find it most suitable for disposal in the First-tier Tribunal.

Notice of Decision

13. The appeal is allowed to the extent that I set aside the decision of the First-tier Tribunal because it erred in law and I have decided that the appeal must be determined again in the First-tier Tribunal where all issues can be re-argued.

Signed
Jonathan Perkins
Judge of the Upper Tribunal



Dated 13 January 2020