



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2022-006597

First-tier Tribunal No: PA/53003/2021

THE IMMIGRATION ACTS

Decision & Reasons Issued:

17th October 2023

Before

UPPER TRIBUNAL JUDGE PICKUP

Between

MKA
(ANONYMITY ORDER MADE)

Appellant

and

Secretary of State for the Home Department

Respondent

Representation:

For the Appellant: Mr K Wood of Counsel, instructed by IAS Ltd
For the Respondent: Mr E Tufan, Senior Home Office Presenting Officer

Heard remotely at Field House on 10 October 2023

Order Regarding Anonymity

Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, [the appellant] (and/or any member of his family, expert, witness or other person the Tribunal considers should not be identified) is granted anonymity.

No-one shall publish or reveal any information, including the name or address of the appellant, likely to lead members of the public to identify the appellant (and/or other person). Failure to comply with this order could amount to a contempt of court.

DECISION AND REASONS

1. By a decision of the First-tier Tribunal (Judge Singer), the appellant, a national of Ethiopia, has been granted permission to appeal to the Upper Tribunal against the decision of the First-tier Tribunal (Judge Handler) dismissing his appeal against the

respondent's decision of 21.5.21 to refuse his claim for international protection made shortly after his arrival in the UK in September 2019.

2. Having heard submissions from both legal representatives, I reserved my decision to be provided in writing, which I now do.
3. The judge accepted the submission that the appellant's attendance at *sur place* activities, including one in December 2019 where Jarwar Mohammed spoke and the appellant read out a passage on stage, was not inconsistent with OLF support, as the evidence demonstrated that there was considerable joint activity between the Oromo Community and the OLF. However, the judge found that the evidence did not demonstrate that the appellant was a genuine OLF supporter 'in particular' and that his *sur place* political activity was 'opportunistic,' undertaken solely to bolster his asylum claim. Part of the reasoning in support of this conclusion is that the appellant was not politically active in Ethiopia and was not politically active at all in the years between 2015 and 2019, and that in the main his participation had been as a member of the crowd. The judge found that he had not come to the adverse attention of the Ethiopian authorities and had not been detained on suspicion of OLF involvement, as claimed. The judge also reasoned that the unexplained gap in political activity was inconsistent with an ongoing genuine political involvement.
4. Nevertheless, for the reasons set out in the decision at [31], the judge accepted that the appellant had attended meetings and other activities organised by the Oromo community in the UK, "and holds a genuine political opinion in favour of greater rights for Oromo people because this is plausible." However, the judge found that his limited activity would not have come to the attention of the Ethiopian authorities, there being no evidential or country background information support for that contention.
5. In summary, the three overlapping grounds make rationality and reasons complaint about the judge's findings at [31] and [35(c) - (d)] as to the appellant's political opinion. Mr Wood, author of the grounds, relied on all three grounds and made brief submissions entirely consistent with the written grounds.
6. The grounds argue that these findings are irrational and inconsistent, and fail to provide adequate reasoning why the appellant would not be at risk on return having regard to ROBA (AAR) (Rev1) (OLF members and sympathisers) Ethiopia (CG) [2022] UKUT 1 (IAC) at [3] and [4]: where the Upper Tribunal held, inter alia, that : (3) Those who have a significant history, known to the authorities, of OLF membership or support, or are perceived by the authorities to have such significant history will in general be at real risk of persecution by the authorities. (4) 'Significant' should not be read as denoting a very high level of involvement or support. Rather, it relates to suspicion being established that a person is perceived by the authorities as possessing an anti-government agenda. This is a fact sensitive assessment."
7. In reply, Mr Tufan pointed out that a person may well have a political opinion but that does not mean that they would necessarily express that opinion or pursue political activity on return to Ethiopia. It was submitted that the judge was entitled to distinguish between OLF support and a more general political opinion in support of the Oromo people and that sufficient reasons had been provided for finding the appellant's political activity was merely opportunistic and designed to bolster an asylum claim. Whilst he had attended demonstrations and had spoken at one of them, he was not a leader or organiser but a member of the crowd. Mr Tufan referred me to headnote [2] of ROBA, which held that OLF members and supporters and those specifically perceived by the authorities to be such

members or supporters will in general be at real risk if they have been previously arrested or detained on suspicion of OLF involvement. Mr Tufan pointed out that the appellant was found not to have any significant history, or to have been detained, or to be known to the Ethiopian authorities. It was also submitted that his activities were not significant and that the judge was entitled to find that there was no reason why he would have come to the attention of the Ethiopian authorities.

8. Having carefully considered the competing submissions against the written decision of Judge Handler, I am satisfied that for the cogent reasons set out in the decision, the judge was entitled to: (i) distinguish between the appellant's support for the Oromo people in general and OLF support in particular, which the judge did not accept; (ii) to find that the *sur place* activity was opportunistic and intended to bolster his asylum claim; (iii) and that in light of no prior political activity in Ethiopia, and a lengthy period without any such activity in the UK, to find he would not continue any support for the OLF on return to Ethiopia. Those findings were neither inconsistent nor irrational but open to the Tribunal on the evidence.
9. The stronger of the three grounds is that suggesting insufficient reasoning why the appellant as a genuine supporter of increased rights for the Oromo people would not on return be regarded with suspicion by the Ethiopian authorities and therefore at a real risk of persecution for his political opinion. Opportunistic or insincere political activity can nevertheless bring a person within the scope of a risk of persecution on grounds of political opinion. I also bear in mind that the threshold for suspicion giving rise to adverse interest is relatively low. However, I am satisfied that the judge provided cogent reasoning for finding that the appellant did not have a genuine political opinion in support of the OLF and would not engage in any such political activities on return to Ethiopia, not because of fear of the authorities, but because he in fact has no genuine political opinion beyond support of the Oromo people and has no interest in engaging in any political activity on return, entirely consistent with his previous behaviour as found by the Tribunal. His level of involvement was found to be very low. In summary, the judge was entitled to find that the appellant had not come to the attention of the Ethiopian authorities and would not be politically active on return to Ethiopia and therefore would not be at risk on return, which finding is supported by cogent reasoning.
10. In all the circumstances, although perhaps the findings could have been more clearly expressed, I am satisfied that they were open to the Tribunal on the evidence, were not irrational or unreasoned, and disclose no material error of law.

Notice of Decision

The appellant's appeal to the Upper Tribunal is dismissed.

The decision of the First-tier Tribunal stands and the appeal remains dismissed on all grounds.

I make no order for costs.

DMW Pickup

DMW Pickup

Judge of the Upper Tribunal
Immigration and Asylum Chamber

10 October 2023