



**IN THE UPPER TRIBUNAL**  
**IMMIGRATION AND ASYLUM CHAMBER**

**Case No: UI-2024-000612**  
**First-tier Tribunal No:**  
**PA/55916/2022**  
**LP/00405/2023**

**THE IMMIGRATION ACTS**

**Decision & Reasons Issued:**  
**On the 03 April 2024**

**Before**

**UPPER TRIBUNAL JUDGE BRUCE**

**Between**

**FWB**  
**(anonymity order made)**

Appellant

**and**

**Secretary of State for the Home Department**

Respondent

**Representation:**

For the Appellant: Ms Stuart King, Counsel instructed by Spicer Zeb Solicitors  
For the Respondent: Mr Clarke, Senior Home Office Presenting Officer

**Heard at Field House on 28 March 2024**

**Anonymity**

**Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, the Appellant is granted anonymity.**

**No-one shall publish or reveal any information likely to lead members of the public to identify the Appellant. Failure to comply with this order could amount to a contempt of court.**

**DECISION AND REASONS**

1. The Appellant is a national of Ethiopia born on the 25<sup>th</sup> May 1990. He appeals with permission against the decision of the First-tier Tribunal (Judge Suffield-Thompson) to dismiss his appeal on protection grounds.
2. The basis of the Appellant's protection claim was that he has a well-founded fear of persecution in Ethiopia for reasons of this ethnicity and political opinion. He claims that he has been a supporter of the Oromo Liberation Front (OLF) since January 2013. In particular he claims to have been involved in promoting the organisation by distributing leaflets, attending meetings and making financial contributions. Since the Appellant's arrival in the UK he has continued to support the organisation through attendance at protests against the Ethiopian government. The Appellant has been lawfully living in the UK as the spouse of a refugee since 2013. He was however prompted to seek protection in his own right in December 2020 after the Ethiopian security services attended his family home in Ethiopia with a warrant for his arrest.
3. The Respondent accepted that the Appellant is of Oromo ethnicity, and that he was a low level support of the OLF. He nevertheless rejected the claim on the grounds that the Appellant had not demonstrated that he had a profile such that the Ethiopian authorities would be aware of his political views.
4. The Appellant appealed to the First-tier Tribunal and the matter came before Judge Suffield-Thompson. The Tribunal did not accept any of the account given, and made it abundantly clear that it thought the Respondent wrong to have accepted even that the Appellant was a low level supporter of the group. It dismissed the appeal on the ground that the account was not credible.
5. The Appellant now appeals on several grounds. I need deal only with the strongest here, since Mr Clarke on behalf of the Respondent accepted that they were made out, and that the errors were such that the decision must be set aside.

**Ground (i): Failure to apply the correct standard of proof/misdirection**

6. Throughout the decision asserted facts are rejected on the basis that there is "no proof" that they are true. This was incorrect as a matter of fact. For instance at its §47 the Tribunal states that there was "no proof" that the Ethiopian authorities had come to the Appellant's family home looking for him. In fact there was the Appellant's own evidence, there was a warrant for his arrest, and there was the confirmatory letter from the OLF UK Committee which states that sources in Ethiopia had confirmed this to be the case. It was open to the Tribunal to reject all of that if it was so minded, but it was an error to find that it did not constitute evidence.
7. See also: at its §52 the Tribunal states that no reason was provided for the late production of the arrest warrant. An explanation could be found in the Appellant's evidence given at his asylum interview and in his witness statement. At its §60 the Tribunal finds there to be "no evidence at all" that the Appellant had been conducted *sur place* political activity in the UK. There was the Appellant's own evidence, and the letter from the OLF. This was evidence.
8. It may be that what the Tribunal meant to say was that there was "no credible evidence" or there was "no reliable evidence", or "no weighty evidence". That would, with the support of reasons, have been a perfectly permissible finding for

it to have made. However the formulation of “no evidence”, which appears throughout the decision, leaves the reader, and the Appellant, with the impression that important evidence was discounted on the basis that it was uncorroborated. In the context of an asylum appeal, that is an error in approach.

### **Ground (iv): Misunderstanding/misapplication of the Country Guidance**

9. At its §42 the Tribunal refers to the current country guidance on Oromo claims Roba (OLF- MB confirmed) Ethiopia CG [2022] UKUT 00001 (IAC). It summarises the effect of that decision as follows:

42. I am also assisted by the case of SSR (OLF-MB confirmed) Ethiopia [2022] CG UKUT 00001 (IAC). It makes it clear that OLF members and supporters and those specifically perceived by the authorities to be such members or supported will in general be a real risk if they have been previously arrested or detained on suspicion of OLF involvement. It goes on to say that those who have a “significant” history and are known to the authorities will be at real risk. **They define “significant” as denoting a very high level of involvement or support** and this is fact sensitive to each case. I do not find that this is the case for this Appellant as I find he falls into the category of a low-level supporter.

(emphasis added).

10. Unfortunately the Tribunal appears to have misread the headnote in Roba, since this is in fact completely at odds with what we found.
- (1) *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.*
- (2) *‘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.*
11. That is plainly a misdirection. The Tribunal assessed the evidence, and importantly the concession that the Appellant was in fact a low level supporter of the OLF, in the light of its own erroneous understanding of the country guidance.
12. The decision is therefore set aside in its entirety. Given the extent of the fact finding required, and the nature of the errors, I am satisfied that it would, as Ms Stuart King suggests, be in the interests of justice that this matter be remitted to the First-tier Tribunal to be heard *de novo* by a judge other than Judge Suffield Thompson.

### **Decisions and Directions**

13. The decision of the First-tier Tribunal is set aside.

14. This appeal is remitted to the First-tier Tribunal to be heard *de novo* by a judge other than Judge Suffield Thompson.
15. There is presently an order for anonymity in this ongoing protection appeal.

Upper Tribunal Judge Bruce  
Immigration and Asylum Chamber  
28<sup>th</sup> March 2024