



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

Appeal Number: AA/10395/2015

THE IMMIGRATION ACTS

**Heard at Bradford
On 6 July 2016**

**Decision & Reasons
Promulgated
On 11 July 2016**

Before

UPPER TRIBUNAL JUDGE CLIVE LANE

Between

**MUBAREK MUZEYEN KAMAL
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms Cleghorn, instructed by Duncan Lewis & Co Solicitors
For the Respondent: Mr McVeety, Home Office Presenting Officer

DECISION AND REASONS

1. The appellant, Mubarek Muzeyen Kamal was born on 5 October 1990 claims to be a citizen of Eritrea. He appealed against the decision of the Secretary of State dated 30 June 2015 refusing him asylum and making directions for his removal from the United Kingdom. First-tier Tribunal

(Judge Manchester) in a decision promulgated on 10 May 2016 dismissed the appeal. The appellant now appeals, with permission, to the Upper Tribunal.

2. I was assisted by both representatives at the Upper Tribunal hearing at Bradford on 6 July 2016. Neither representative sought to defend the decision of the First-tier Tribunal in particular Judge Manchester's observations at [58]:

"I have taken into account there was acceptance in the case *MO (illegal exit - risk on return) Eritrea CG* [2011] UKUT 190 (IAC) that, prior to the August/September 2008 date restricting the possibility of legal exit for certain categories of person, it would be reasonably possible for persons of draft age to leave the country legally. Further, he having regard to the comments of the Court of Appeal in *MA (Eritrea)* and my findings on credibility, I do not find that it behoves me to speculate how the appellant left Eritrea and what precise basis he did so legally or how he would be able to establish that fact to the satisfaction of the authorities on return."

3. Both parties agreed that the judge erred in law by not making any findings on the evidence as to whether the appellant had left Eritrea legally or illegally. With respect, it did behove the judge to make the necessary findings and not simply to avoid the issue.
4. In the circumstances, I set aside the judge's decision. There needs to be a new fact-finding exercise which is best conducted by the First-tier Tribunal.

Notice of Decision

5. The decision of the First-tier Tribunal promulgated on 10 May 2016 is set aside. None of the findings of fact shall stand. The appeal should be remitted to the First-tier Tribunal (not Judge Manchester) for that Tribunal to remake the decision.

No anonymity direction is made.

Signed

Date 4 July 2016

Upper Tribunal Judge Clive Lane