



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

Appeal Number: PA/05213/2018

**THE IMMIGRATION ACTS**

**Heard at North Shields  
On 11 December 2018**

**Decision Promulgated  
On 18 December 2018**

**Before**

**UPPER TRIBUNAL JUDGE GLEESON**

**Between**

**E E  
[ANONYMITY ORDER MADE]**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: Ms Marian Cleghorn, Counsel instructed by Halliday  
Reeves Law Firm

For the Respondent: Mr Myroslav Diwnycz, a Senior Home Office Presenting  
Officer

**DECISION OF THE UPPER TRIBUNAL**

**PURSUANT TO RULE 40(3)(a) OF  
THE TRIBUNAL PROCEDURE (UPPER TRIBUNAL) RULES 2008**

1. The appellant appeals with permission from the decision of the First-tier Tribunal dismissing his appeal against the respondent's decision to refuse him international protection on asylum or humanitarian protection grounds, or leave to remain in the United Kingdom on human rights grounds. The appellant is a non-arab Darfuri of the Berti tribe, whose case

is that while in Sudan, he worked with students, putting him at increased risk of persecution or serious harm.

2. At the hearing today, it was common ground that the First-tier Tribunal did materially err in law. The core incident of past persecution relied upon was the appellant's assertion that he had been kicked and beaten in the supermarket. The Judge at [53] dismissed that account on the basis that he had already found the appellant's account to lack credibility. That was a plain *Mibanga* error: the Judge failed to take all of the evidence and assertions into account before reaching his conclusions on the credibility of the account overall.
3. The parties agree that this is a case where the decision of the First-tier Tribunal must be set aside, and that no written reasons are required. The requirements of sub-paragraphs 40(3)(a) and 40(3)(b) of the Procedure Rules are met. I am also satisfied that the decision of the First-tier Tribunal can properly be set aside without a reasoned decision notice.
4. I therefore set aside the decision of the First-tier Tribunal, with no findings of fact or credibility preserved. The appeal will now proceed to the stage in which the First-tier Tribunal will remake the decision to allow or dismiss the appeal on the basis described in the grant of permission.

Signed: [Judith A J C Gleeson](#)  
December 2018  
Upper Tribunal Judge Gleeson

Date: 11