



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

Appeal Number: PA/09243/2016

**THE IMMIGRATION ACTS**

**Heard at Bennett House, Stoke-on-Trent  
On 16<sup>th</sup> November 2017**

**Decision & Reasons  
Promulgated  
On 05<sup>th</sup> January 2018**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE RENTON**

**Between**

**[C H]  
(~~ANONYMITY DIRECTION NOT MADE~~)**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: Mr S Woodhouse of Sultan Lloyd Solicitors  
For the Respondent: Mr A McVeety, Home Office Presenting Officer

**DECISION AND REASONS**

**Introduction**

1. The Appellant is a male citizen of Ethiopia born on [ ] 1998. He entered the UK illegally on 5<sup>th</sup> June 2015 and applied for asylum that day. That application was refused for the reasons given in a Reasons for Refusal statement dated 17<sup>th</sup> August 2016. The Appellant appealed and his appeal

was heard by First-tier Tribunal Judge Chohan (the Judge) sitting at Birmingham on 17<sup>th</sup> March 2017. He decided to dismiss the appeal on asylum, humanitarian protection, and human rights grounds for the reasons given in his Decision dated 24<sup>th</sup> March 2017. The Appellant sought leave to appeal that decision and on 20<sup>th</sup> September 2017 such permission was granted.

### **Error of Law**

2. I must first decide if the decision of the Judge contained an error on a point of law so that it should be set aside.
3. The Appellant claimed to be at risk on return to Ethiopia as an ethnic Oromo who was a supporter of the Oromo Liberation Front (OLF) for which organisation he distributed leaflets and contributed money. His father had been a supporter of the OLF who had been abducted by the Ethiopian authorities in 2005, and his mother had been imprisoned in 2014.
4. The Judge dismissed the appeal because although he was satisfied that the Appellant had participated in a demonstration held on 29<sup>th</sup> April 2014, the Judge was not satisfied that the Appellant had a prominent profile within the OLF or the Oromo community in Ethiopia, nor that the Appellant had been active within the OLF as claimed. The Judge rejected most of the Appellant's evidence as lacking credibility, and found that the authorities in Ethiopia had no adverse interest in the Appellant. The Judge noted that according to the information from the Competent Authority that the Appellant had been trafficked, but decided that that issue had no bearing on his credibility finding. The Judge noted discrepancies in the Appellant's evidence when compared with what he had said during his screening interview, and found that the Appellant did not come within the risk categories identified in **MB (OLF and MTA - risk) Ethiopia CG [2007] UKAIT 00030**. Since his arrival in the UK the Appellant had done no more than simply attend some demonstrations.
5. At the hearing, Mr Woodhouse argued that the Judge had erred in law in coming to these conclusions. The decision of the Judge as to the Appellant's credibility was flawed. The Judge had failed to treat the Appellant as a vulnerable witness established by his age and the evidence that the Appellant had been trafficked. The Judge had attached too much weight to what the Appellant had said during a screening interview. This was a material error as the Appellant's evidence was that he and his parents have a significant history as members and supporters of the OLF which put the Appellant in a risk category as described in **MB**.
6. In response, Mr McVeety referred to the Rule 24 response and argued that there was no such error of law. The Judge had directed himself appropriately, and according to what he wrote at paragraph 10 of the Decision, had taken into account the Appellant's age when considering his evidence. There was no authority to say that what the Appellant had said during his screening interview could be ignored. The discrepancies

referred to by the Judge were material as they did not relate to minor issues.

7. I find an error of law in the decision of the Judge which I therefore set aside. The Judge's decision is based almost entirely on his finding that the Appellant was not credible and that therefore there was no reliable evidence which placed the Appellant in any of the risk categories identified in **MB**. However, although the Judge referred to the age of the Appellant when analysing his evidence, he had not treated the Appellant as somebody who had been trafficked despite the evidence from the Competent Authority referred to in the refusal letter, and he had not treated the Appellant as a vulnerable witness in accordance with the Joint Presidential Guidance Note No 2 of 2010. This amounts to a material error of law because the Appellant's vulnerability might have explained the discrepancies in his evidence relied upon by the Judge to find him lacking in credibility.
8. I did not proceed to remake the decision in the appeal. Instead that decision will be remade in the First-tier Tribunal in accordance with paragraph 7.2(b) of the Practice Statement as there is a substantial amount of judicial fact-finding still to be made. None of the findings of fact made by the Judge in the First-tier Tribunal may be preserved.

### **Notice of Decision**

The making of the decision of the First-tier Tribunal did involve the making of an error on a point of law.

I set aside that decision.

The decision in the appeal will be remade in the First-tier Tribunal.

### **Anonymity**

The First-tier Tribunal did not make an order for anonymity. I was not asked to do so and indeed find no reason to do so.

Signed

Date 4<sup>th</sup> January 2018

Deputy Upper Tribunal Judge Renton

