



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: AA/02022/2013

**THE IMMIGRATION ACTS**

Heard at Field House  
On 14<sup>th</sup> March 2014

Determination Promulgated  
On 3<sup>rd</sup> April 2014

Before

UPPER TRIBUNAL JUDGE KING TD

Between

ATAKLIT HABTE

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

**Representation:**

For the Appellant: Mr R Solomon, Counsel, instructed by Ziadies Solicitors  
For the Respondent: Mr G Saunders, senior Home Office Presenting officer

**DECISION AND DIRECTIONS**

1. The appellant is a citizen of Eritrea, born on 26<sup>th</sup> December 1994. He arrived in the United Kingdom on 22<sup>nd</sup> September 2008 and claimed asylum on arrival. He was granted limited leave to remain as an unaccompanied child.

2. He seeks now to appeal against the respondent's decision of 25<sup>th</sup> December 2012, refusing to grant him asylum or to grant him further leave to remain.
3. In summary the appellant claims to fear persecution both as a result of his religion and as a draft evader.
4. The appeal came before First-tier Tribunal Judge O'Flynn on 4<sup>th</sup> September 2013. The appellant did not attend on that occasion nor was he represented. The Judge understandably proceeded to determine the matter in his absence.
5. It was the appellant's claim that he was a practising Pentecostal in Eritrea. He said that his mother had been arrested by the Eritrean Security Forces because of her Pentecostal faith and thus it was that he travelled with his aunt and uncle who arranged for him to escape to the UK.
6. It was not accepted in the reasons for refusal that the appellant had been or was a practising Pentecostal. He merely has given his religion as "Christian" in the screening interview and there were many Eritrean Christians who were orthodox Christians as opposed to Pentecostal. In addition he had displayed little knowledge of the faith. It was noted indeed that the appellant had not submitted any evidence that he had been involved in the Pentecostal Church since arriving in the United Kingdom in 2008.
7. The Judge noted that the questioning of the appellant in interview might have not been as carefully managed as may be, given that at the time of the interview the appellant was 13 years of age. The Judge noted that certain matters relied upon by the respondent perhaps were unfairly taken against the appellant when viewed with his age. Notwithstanding those comments there seems to be little by way of finding as to whether or not that claim of the appellant was well-founded.
8. Of more concern, however, was the issue as to whether or not he had left Eritrea illegally. Once again there seems to be little clear findings or analysis on that matter. The Judge highlighted in paragraph 13 of the determination the respondent's unfairness in putting a negative inference on the appellant's evidence. The appellant's case was that he left in August or September 2008 which was of course the time of particular concern as to whether or not the limitations on exit were more stringent than before. In any event there seemed to be no finding whether or not he did leave illegally and if so what consequence follows.
9. The appeal was granted on the basis that it perhaps was unfair for the Judge to hear the matter in the absence of the appellant.
10. The matter comes before me in pursuance of that grant. For my part I see nothing wrong with the Judge proceeding in the absence of the appellant albeit that it was an asylum matter. What, however, is of more concern are that the appellant had been

interviewed when he was 13 and the key elements of his case do not seem to have been analysed with particular care nor clear findings made upon them.

11. It is unnecessary to go into further detail because both Mr Solomon, who represented the appellant, and Mr Saunders who represented the respondent accepted that there were such deficiencies in the determination that it should not stand.
12. In those circumstances I set aside the determination and direct that it be remade.
13. As it will of necessity be a de novo hearing it should be listed before the First-tier Tribunal in accordance with the Senior President's practice directions.
14. A Tigrinyan interpreter will be required. The appellant was in attendance and confirmed his address. I stressed to him the importance of keeping in touch both with his solicitors and with the Tribunal, such that he should present himself on the next occasion.
15. Any further documentation or evidence that is relied upon should be filed with the Tribunal no later than seven days prior to the hearing.
16. Any further directions that may be required will be given by the First-tier Tribunal.

Signed

Date

Upper Tribunal Judge King TD