



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

Appeal Number: AA/06264/2013

**THE IMMIGRATION ACTS**

**Heard at Bradford  
On 19<sup>th</sup> June 2014**

**Determination Sent  
On 28<sup>th</sup> July 2014**

**Before**

**UPPER TRIBUNAL JUDGE D E TAYLOR**

**Between**

**SARA HAGOSE**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: Miss Khan of Counsel instructed by Blavo & Company  
Solicitors

For the Respondent: Mrs R Pettersen, HOPO

**DETERMINATION AND REASONS**

1. This is the Appellant's appeal against the decision of Judge Kelly made following a hearing at Bradford on 17 March 2014.

**Background**

2. The Appellant made a claim for asylum on 29<sup>th</sup> May 2013 on the basis that she was a citizen of Eritrea and a Pentecostal Christian. The Secretary of

State refused the application on 21<sup>st</sup> June 2013 rejecting the Appellant's account in its entirety.

3. The Respondent did not accept that she was a national of Eritrea. It was believed that she was a national of Ethiopia.
4. The judge agreed with the Secretary of State finding the Appellant's evidence to be wholly implausible. He concluded that she had failed to adduce credible evidence to substantiate that she was an Eritrean national or that she had resided in Eritrea or that she held any genuine religious conviction or that she had experienced religious persecution in the past and rejected her account of having a relationship with a Mr Weldmaryam.
5. He recorded that the Appellant did not have to disprove the Respondent's assertion that she was an Ethiopian national and it was for the Respondent to adduce credible evidence that she was. He wrote

"The sole reason why the Respondent appears to assert that the Appellant is an Ethiopian national is the fact that she speaks Amharic and does not speak Tigrinya. However as Amharic is not a language that is spoken exclusively in Ethiopia I find this to be an insufficient basis for discharging the evidential burden that rests upon the Appellant in relation to this discrete issue."

6. He recorded that the evidence from the Ethiopian Embassy neither proved nor disproved the Respondent's claim that she was a citizen of Ethiopia.
7. He said that he was not satisfied that the Appellant had a well-founded fear of persecution in either country and dismissed the appeal.

### **The Grounds of Application**

8. The Appellant did not seek to challenge any of the credibility findings in the determination. However it was submitted that Judge Kelly erred in law in failing to consider the Appellant's position as a stateless person. The grounds state:

"Judge Kelly made the finding that the Appellant had failed to adduce any credible evidence that she was an Eritrean national or had ever resided in Eritrea. Judge Kelly further made a finding that the Respondent had not discharged the evidential burden placed upon her to show the Appellant is an Ethiopian national. Judge Kelly then jumps to the conclusion that the Appellant would not be at risk in either country. The two conclusions do not necessarily follow. Judge Kelly's own findings show that the Appellant has no nationality and he should have considered the Appellant's position as a stateless person."

9. Permission to appeal was granted for the reasons stated in the grounds by Designated Judge Appleyard on 22<sup>nd</sup> April 2014.

10. Miss Khan relied on her grounds and Mrs Pettersen defended the determination.

**Findings and Conclusions**

11. The grounds are misconceived. The judge did not find that the Appellant was stateless as asserted. He did what he was required to do, namely to assess whether the Appellant had made out her claim to be at risk on return to Eritrea. Since she had never asserted a risk in Ethiopia he was perfectly entitled to conclude that she did not have a well-founded fear of persecution there either.

12. His comment that the Respondent had not discharged the burden of proof to show that the Appellant was Ethiopian is not a finding of statelessness. It is irrelevant to the issues under appeal. The judge was not concerned with the practicalities of removal but whether the Appellant had made out her claim to be at risk on return to Eritrea.

13. There is no challenge to his findings that she was not.

**Decision**

14. The judge's decision stands. The Appellant's appeal is dismissed.

Signed

Date

Upper Tribunal Judge Taylor