



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

Appeal Number: AA/01696/2015

THE IMMIGRATION ACTS

Heard at Stoke on Trent

**Determination
Promulgated**

On 3 November 2015

On 5 November 2015

Before

Deputy Upper Tribunal Judge Pickup

Between

Suleman Omer

[No anonymity direction made]

Appellant

and

Secretary of State for the Home Department

Respondent

Representation:

For the appellant: Not represented

For the respondent: Mr A McVeety, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. The appellant, Suleman Omer, date of birth 26.6.84, claims to be a citizen of Eritrea. The Secretary of State asserts that he is Sudanese.
2. This is his appeal against the decision of First-tier Tribunal Judge Pacey promulgated 27.5.15, dismissing his appeal against the decision of the Secretary of State, dated 9.1.15, to refuse his asylum, humanitarian protection and human rights claims. The Judge heard the appeal on 15.5.15.
3. First-tier Tribunal Judge Holmes refused permission to appeal on 18.6.15. However, when the application was renewed to the Upper Tribunal, Upper

Tribunal Judge Coker granted permission to appeal on 11.8.15.

4. Thus the matter came before me on 3.11.15 as an appeal in the Upper Tribunal.
5. There was no attendance of any legal representative on behalf of the appellant. I put the case back to 11:00 for the appellant and the Tribunal administration to try to make contact with the listed representative Mr David Forbes, company director of Lifeline Options Community Interest Company, but no one answered the phone when the number given was called several times. I note that Aman Solicitors represented the appellant at the First-tier Tribunal. It is not clear from the file when Lifeline Options came on the scene but the appellant told me that he had changed representation after the decision of the First-tier Tribunal, when his then solicitors declined to act further for him.
6. There was no explanation for absence of representation, and no communication from Lifeline Options and I am not satisfied in any event that David Forbes is an authorised legal representative. Although we waited to see if anyone was coming and may have been delayed in traffic, no one attended. The appellant was accompanied by a friend, Mr Nazer Hamed, who said that he could translate for the appellant and sought to assist the appellant in making representations on the error of law issues. In the circumstances, I considered that it was in the public interest to proceed to hear at least the error of law part of the appeal. I confirmed that the appellant was aware of the two simple issues raised in the application for permission to appeal.

Error of Law

7. For the reasons set out below I find no material error of law in the making of the decision of the First-tier Tribunal such as to require the decision of Judge Pacey to be set aside.
8. The grounds of appeal make two principle assertions of error of law. First, that the First-tier Tribunal Judge failed to take account of the language used by the appellant - Tigre - asserting that it is a language not spoken in Sudan but only in Eritrea. In granting permission to appeal, Judge Coker considered it arguable that this issue should have been taken into account in reaching the conclusion that the appellant is of Sudanese nationality and not Eritrean as claimed.
9. However, there is no merit at all in this ground. It is correct that the appellant was interviewed and had an interpreter in Tigre. However, as the refusal decision explains, supported by the objective evidence in the respondent's bundle at E1, Tigre, which is different to Tigrinya, is a semitic language of the Tigre people of north-western Eritrea and smaller areas of neighbouring Sudan. It is thus spoken in both Eritrea and Sudan, particularly in the border areas. I also note that when asked at Q9 what languages he spoke, the appellant answered "Little Tigrinya; good Arabic; little Hedareb, and little Saho." It follows that this issue cannot assist in assessing whether the appellant is Eritrean or Sudanese and thus there no error of law is disclosed.

10. The second issue is that the judge failed to accurately reflect the appellant's evidence of his locality of origin. It is clear from the papers that the appellant claimed to be from the village of Taletasher in the vicinity of Teseney in the Gash Baska region of Eritrea, an area close to the Sudanese border. In granting permission to appeal, Judge Coker considered it arguable that the judge conflated the appellant's village with the nearby town when concluding that he would have known town notable places if he worshipped there. "It is unclear what the First-tier Tribunal judge meant by "those of Islamic faith take religious observance very seriously" and how that affected his conclusions."
11. I agree that the observation about taking religious observance very seriously was inappropriate, as the appellant had not stated how often he attended the mosque in Teseney, and it did not necessarily follow that he attended the mosque in Teseney regularly or frequently. However, taken in the overall context of the evidence this observation was not crucial to any issue. When asked about his religion at Q89-93 of the interview and in particular as to his local place of worship the appellant stated it was the Grand Mosque of Teseney, in the town centre. He was able to describe its structure, colour, and that there are trees outside the building. He did not suggest that he regularly worshipped in Taletasher but clearly he must have been there numerous times, if his factual account is correct. Regardless of how often he attended the mosque, the general point being made by the judge is still valid; on his account he should be able to answer general questions about Teseney. However, the appellant was in difficulties in interview answering further questions about Teseney, stating that as he was not a regular visitor he was unable to describe any tourist attractions. The grounds claim that the village was an hour's drive from Teseney suggesting that it was not unreasonable for the appellant not to have a tourist-office level of knowledge of the town. Teseney is only 45Km from the Sudanese border and Taletasher is between the border and Teseney. Thus it cannot be an hour's drive away, as the border itself is less than an hour's drive. The refusal decision suggests that the appellant may have gained his rather limited knowledge of Teseney from publically available information and/or travelled in the past between Teseney and Sudan, whilst living in Sudan, the ease of which he referred to during his asylum interview.
12. Taken as a whole, the First-tier Tribunal Judge relied on a significant number of factors in reaching the conclusion that the appellant is from Sudan and not Eritrea. For example, the appellant claimed to have only come to the attention of the Eritrean authorities in February 2011. However, the copy ID card submitted suggests that it was issued in Teseney on 24.4.09. Further, the translation of the document states that his address at the date of issue in 2009 is in Gedaref, East Sudan, which is close to the border with Eritrea, giving the lie to his claim to have first left Eritrea in 2011. This is also the place in Sudan where the appellant claims to have been born. For those reasons the First-tier Tribunal Judge gave little weight to the Eritrean ID card, the original of which was not produced.
13. In all the circumstances, I find no material error of law in the judge's findings leading to the conclusion that the appellant is Sudanese and not Eritrean as claimed. In the light of the evidence taken as a whole, the

conclusion is entirely understandable and justified by cogent reasoning.

Conclusions:

14. For the reasons set out herein, I find that the making of the decision of the First-tier Tribunal did not involve the making of an error on a point of law such that the decision should be set aside.

I do not set aside the decision.

The decision of the First-tier Tribunal stands and the appeal remains dismissed on all grounds.



Signed

Deputy Upper Tribunal Judge Pickup

Anonymity

I have considered whether any parties require the protection of any anonymity direction. No submissions were made on the issue. In the circumstances, I make no anonymity order.

Fee Award

Note: this is not part of the determination.

In the light of my decision, I have considered whether to make a fee award. I have had regard to the Joint Presidential Guidance Note: Fee Awards in Immigration Appeals (December 2011).

I make no fee award.

Reasons: No fee is payable in this case and thus there can be no fee award.



Signed

Deputy Upper Tribunal Judge Pickup