



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

Appeal Number: AA052822015

THE IMMIGRATION ACTS

Heard at Stoke

On 10 May 2016

Prepared 10 May 2016

**Decision &
Promulgated**

On 27 May 2016

Reasons

Before

DEPUTY UPPER TRIBUNAL JUDGE DAVEY

Between

**MR SAMISAEED ABDULLAH AL-ARIKI
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms C Johnrose, Agent for Immigration Advice Service

For the Respondent: Ms Johnstone, Senior Presenting Officer

DECISION AND REASONS

1. The Appellant, a national of the Yemen, date of birth 15 December 1972, appealed against the Respondent's decision, dated 16 January 2015, to make removal directions on Form IS151A having been served on 1 May 2013 and an asylum/human rights based claim having been refused. The appeal came before First-tier Tribunal Judge Nicol (the judge) who

promulgated a decision [D] on 31 July 2015 in which he dismissed an appeal based on asylum grounds, human rights grounds.

2. Permission to appeal that decision was given by First-tier Tribunal Judge Page on 19 August 2015. The Secretary of State made a Rule 24 response dated 8 September 2015.
3. The Appellant's immigration history is not directly relevant but it is plain that the judge applied Section 8 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 and made a number of adverse findings against the Appellant's claim.
4. The criticisms of the judge's decision are in short these. First, it was argued that the Appellant's circumstances on a return to Yemen were such that Article 15(c) of the Qualification Directive was engaged because there was such a serious risk of harm through the destabilised status of the Yemen and he would face indiscriminately a real threat to his life.
5. Secondly, it was said that the judge had failed to give adequate reasons for the findings on material matters particularly his rejection that the Appellant's claim to be involved in journalism as an occupation in the Yemen. Rather the judge had found the Appellant was a translator/interpreter. The judge dealt with that issue at [D 23 to 26] and in general terms rejected credibility at [D 29 and 30]. It is extremely unfortunate when the judge was taken to evidence which showed at least prime facie evidence and better evidence than that, that the Appellant was recorded in the Register of Yemeni Journalists Syndicate as well as had a commercial licence to operate and other documentation that spoke to the Appellant's work as a journalist and editor in publishing in the Yemen.
6. There were no sufficient or adequate reasons to reject the general claim and to fail to make any reference to or have any regard for the evidence

that had been specifically provided; upon which submissions were made, in part he noted [D 21] and yet make no findings upon the matter. These failures are material errors of law. The judge [D 21] referred to the Appellant's representative providing a skeleton argument but this appears that was a mistake by the judge. Ms Johnrose who appeared then, as before me, confirmed that she had not provided any skeleton argument. In the circumstances I can only assume that is a mistake and could not have been considered by the judge as he in general terms said he had done. The position therefore was that [D 27] the judge simply concluded that Yemen was currently in a 'not settled state'. The judge may have intended to address Article 15(c) but if so failed to do so.

7. In addition the judge was also taken to material that highlighted the extent to which the Appellant, as a journalist, was at risk on return. In the circumstances not only did the judge not deal with those issues to which I have referred but also much of his reasoning lacked any substance.
8. I was satisfied that the Original Tribunal's decision cannot stand. A decision will have to be remade in the First-tier Tribunal.

Directions

- (1) Please list for hearing in Manchester not before Judge Nicol nor Judge A K Simpson.
- (2) List for hearing two hours.
- (3) Issues to be dealt with Refugee Convention Articles 2 and 3 ECHR, Article 15(c), Article 8 ECHR is not to be an issue pursued. There is no need for consideration of any claim arising based on personal life under the Rules.
- (4) Yemeni interpreter required

No anonymity order is necessary nor requested.

Signed

Date 24 May 2016

Deputy Upper Tribunal Judge Davey