



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

Appeal Number: AA/07894/2014

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 11 April 2016**

**Determination  
Promulgated  
On 14 April 2016**

**Before**

**DEPUTY JUDGE OF THE UPPER TRIBUNAL ARCHER**

**Between**

**AH  
(ANONYMITY DIRECTION MADE)**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: Ms L Appiah, Counsel, instructed by Vine Street Chambers  
For the Respondent: Ms A Fijiwala, Senior Home Office Presenting Officer

**DECISION AND REASONS**

1. Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 (SI 2008/2698) I make an order prohibiting the disclosure or publication of any matter likely to lead members of the public to identify the appellant. Breach of this order can be punished as a contempt of court. I make the

order because the appellant is an asylum seeker who might be at risk just by reason of being identified.

2. The appellant appeals against the decision of the First-tier Tribunal dismissing the appellant's appeal on asylum and human rights grounds against a decision taken on 19 September 2014 refusing to grant her further leave to remain and to remove her to Ethiopia.

### **Introduction**

3. The appellant is a citizen of Ethiopia born in 1947. She entered the UK as a visitor on 22 September 2013 and claimed asylum on 11 April 2014. She claimed that she was at risk from the authorities because she had permitted her home to be used for OLF meetings and young men had been arrested there whilst she was in the UK. The authorities were looking for her. Two of her brothers and a nephew had been killed for supporting the OLF.
4. The respondent rejected the claim on credibility grounds.

### **The Appeal**

5. The appellant appealed to the First-tier Tribunal and attended an oral hearing at Taylor House on 14 December 2015. She was represented by Ms Appiah. The judge found that the appellant was not credible for the reasons given at paragraphs 37-47 of the decision. Her evidence was inconsistent, vague and in parts implausible.

### **The Appeal to the Upper Tribunal**

6. The appellant sought permission to appeal on 12 February 2012 on the basis that various adverse findings were based upon issues that were never put to the appellant and there was a lack of explanation for the description of the appellant's evidence as vague and hesitant. Within 30 minutes of the conclusion of the hearing concerns were raised about the interpreter. The judge was aware of the concerns but took no action.
7. Permission to appeal was granted by First-tier Tribunal Judge Parkes on 29 February 2016 on the basis that all grounds were arguable.
8. Thus, the appeal came before me.

### **Discussion**

9. Ms Fijiwala conceded at the outset that the respondent accepted that questions were not put to the appellant and there was a note in the respondent's record of hearing that concerns had been raised regarding the interpreter. It was not clear how that had been taken into account.
10. I find that the grounds of appeal are made out. The judge has made adverse findings of fact regarding matters that were never put to the

appellant and there is no adequate reasoning for the characterisation of the appellant's evidence as vague, hesitant and implausible. That is a material error of law.

11. There is a note in the record of proceedings about the complaint regarding the interpreter, which arose from the observation of the hearing by a friend of the appellant who was fluent in English and the appellant's language. There is no evidence that the judge took any action and there is no reference to the issue in the decision. It was incumbent upon the judge to make a decision regarding the interpreter issue and to explain that decision in the decision. The failure to do so is a further material error of law.
12. Thus, the First-tier Tribunal's decision to dismiss the appellant's appeal involved the making of errors of law and its decision cannot stand.

### **Decision**

13. Both representatives invited me to order a rehearing in the First-tier Tribunal if I set aside the judge's decision. Bearing in mind paragraph 7.2 of the *Senior President's Practice Statements* I consider that an appropriate course of action. I find that the errors of law infect the decision as a whole and therefore the re-hearing will be *de novo* with all issues to be considered again by the First-tier Tribunal.
14. Consequently, I set aside the decision of the First-tier Tribunal. I order the appeal to be heard again in the First-Tier Tribunal to be determined *de novo* by a judge other than the previous First-tier judge.

Signed



Date 11 April 2016

Judge Archer

Deputy Judge of the Upper Tribunal