



**Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: AA/10477/2014**

THE IMMIGRATION ACTS

Heard at Bradford

Decision & Reasons

On 28th September 2015

Promulgated

On 4th February 2016

Before

UPPER TRIBUNAL JUDGE CLIVE LANE

Between

**IDRISS YOUSOUF ABDERAMAN
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: M Bradshaw, instructed by Duncan Lewis (Birmingham)
For the Respondent: Mr M Diwnycz, a Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant, Idriss Youssouf Abderaman, was born on 1 January 1983 and is a citizen of Sudan. He appealed against a decision of the respondent dated 22 October 2014 to remove him as an illegal entrant following the refusal of his asylum claim. The First-tier Tribunal (Judge Anthony), in a decision promulgated on 13 February 2015, dismissed the appeal on all grounds. The appellant now appeals, with permission, to the Upper Tribunal.

2. I am satisfied that the decision of the First-tier Tribunal should be set aside. Mr Diwnycz the HOPO, for the respondent, and Mr Bradshaw, for the appellant, told me they were agreed that the respective Records of Proceedings of the representatives indicated that no mention whatever has been made as to the hearing before the First-tier Tribunal to the matters discussed by the judge in his decision at [15]:

In considering the interview transcript at question 161, I note the appellant states that the language of the Zaghawa people is "Rotana". The respondent does not raise this specifically as an issue in the refusal letter. I find that the appellant's answer seems to be inconsistent with the background and material which states that the Zaghawa's language is Beri or Beri-Aa. Mr Verney [the appellant's expert] also states at paragraph 5 of his report that the mother tongue of the Zaghawa is Beri. I heard no evidence on why the appellant's answer is different to the background information and the report of Mr Verney. I can only conclude the appellant does not know the language of the Zaghawa people is called Beri.

3. Although this aspect of the appellant's case was never raised in the refusal letter (as the judge acknowledges) it was also never raised with the appellant at any stage of his appeal before the First-tier Tribunal. The judge has taken a point on what appears to be an inconsistency between the appellant's evidence and that of the expert without giving the appellant any or any proper opportunity to comment on the apparent inconsistency; notwithstanding that error, the judge concluded that the appellant was not from the Zaghawa tribe "for the reasons I have already indicated above" [31]. I find that it was unfair of the judge to find credibility points against this appellant without giving him any opportunity to comment on matters which clearly appear only to have concerned the judge following the conclusion of the First-tier Tribunal hearing. I therefore set aside the First-tier Tribunal decision. None of the findings of fact shall stand. The matter will be returned to the First-tier Tribunal for a further fact-finding exercise de novo. Following the next hearing in the First-tier Tribunal, that Tribunal shall remake the decision.

Notice of Decision

The decision of the First-tier Tribunal promulgated on 13 February 2015 is set aside. The appeal is returned to the First-tier Tribunal for that Tribunal to remake the decision. None of the findings of fact shall stand.

No anonymity direction is made.

Signed

Date 20 December 2015

Upper Tribunal Judge Clive Lane