



IAC-AH-SAR-V1

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

Appeal Number: OA/21480/2013

THE IMMIGRATION ACTS

**Heard at Bradford
On 29 September 2015**

**Decision & Reasons Promulgated
On 3 March 2016**

Before

UPPER TRIBUNAL JUDGE CLIVE LANE

Between

**ISAYAS BERHANE
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Not present/no sponsor/not represented

For the Respondent: Mrs R Pettersen, a Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant, Mr Isayas Berhane, was born on 17 December 1996 and is a male citizen of Eritrea. It is accepted that the appellant is the brother of Awet Berhane who is a refugee living in the United Kingdom. The appellant applied in 2013 to join the sponsor in the United Kingdom but the Entry Clearance Officer (ECO) Nairobi refused the application under paragraph 319X of HC 395 (as amended). Notwithstanding that refusal, the respondent now accepts (following the production of DNA test results) that the appellant and sponsor are brothers as claimed. The ECO found that there was no evidence that there were serious and compelling family

or other considerations which made exclusion of the appellant from the United Kingdom undesirable and also that suitable arrangements were made for the appellant's care. The ECO considered the appellant was living an independent life (paragraph 319X(v)).

2. The appellant appealed to the First-tier Tribunal (Judge Saffer) which, in a decision promulgated on 23 October 2014, dismissed the appeal. The appellant now appeals, with permission, to the Upper Tribunal.
3. At the hearing on 29 September 2015 at Bradford, the appellant was not represented nor did the sponsor (who lives in Leeds) attend. I am satisfied that the sponsor and the appellant's representative (BMAP) had been duly served with the notice of hearing by first-class post on 4 September 2015. In the circumstances, I proceeded to hear the appeal in the absence of the appellant/any representative/the sponsor.
4. In essence, the grounds of appeal are nothing more than a disagreement with the findings of the judge. At [12] the judge found that the appellant had been living in a house since October 2013 with other Eritreans. The judge accepted that "the appellant has lived effectively alone with minimal support". Contrary to what is stated in the grounds, the judge did consider the appellant's own written evidence to the effect that there was no security in his area and that the situation was "very bad". However, the judge concluded that:

"There was no evidence that the appellant had been affected by the security situation. ... there was no evidence that he has been assaulted, he has been able to receive money, he has cooked for himself and he has been able to shop to buy the food. He was and is living in an acceptable social and economic environment. There was no evidence of neglect or abuse or unmet needs which would be cared for or unstable arrangements for his physical care".

Nothing that was stated in the grounds of appeal to the Upper Tribunal persuades me to question whether those findings were not available to the judge on the evidence. The judge's conclusion that the arrangements could "plainly continue for the time he remained there for the remainder of his minority of eight weeks" was available to him on the evidence. In the circumstances, the appeal is dismissed.

Notice of Decision

The appeal is dismissed.

No anonymity direction is made.

Signed

Date 29 January 2016

Upper Tribunal Judge Clive Lane

TO THE RESPONDENT
FEE AWARD

I have dismissed the appeal and therefore there can be no fee award.

Signed

Date 29 January 2016

Upper Tribunal Judge Clive Lane