



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: PA/13425/2016

THE IMMIGRATION ACTS

Heard at Field House
On 26 June 2017

Decision and Reasons Promulgated
On 5 July 2017

Before

Deputy Upper Tribunal Judge Mailer

Between

H W G

(Anonymity Direction Made)

Appellant

and

Secretary of State for the Home Department

Respondent

Representation

For the Appellant: Ms O Taiwo, UK Law

For the Respondent: Mr S Kandola, Senior Home Office Presenting Officer

DECISION AND REASONS

1. Unless and until a tribunal or court directs otherwise, the appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify him or any member of his family. This direction applies both to the appellant and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.
2. The appellant is a national of Ethiopia, born on 15 January 1980. His appeal against the decision of the respondent dated 22 November 2016, refusing his application for asylum, humanitarian protection and human rights under Articles 2, 3 and 8 of the Human Rights Convention, was dismissed by First-tier Tribunal Judge Sweet in a decision promulgated on 23 January 2017.
3. In granting permission to appeal to the Upper tribunal on 12 May 2017, First-tier Tribunal Judge Andrew was satisfied that there are arguable errors of law in the

Judge's decision in that there were no reasoned findings as to why a low level member of the EPPF would not be at real risk on return to Ethiopia or as to why a person who has taken part in sur place activities in the UK would not be at risk on return.

4. Ms Taiwo, who did not represent the appellant before the First-tier Tribunal Judge, relied on the grounds of appeal. She submitted that the Judge failed to make a clear and reasoned set of findings on the basis of the evidence before him.
5. She referred to paragraph [22] of his decision, where the Judge stated that the appellant was a low level member of the EPPF from 2010. She submitted that the G7-PG7 is a banned and illegal party in Ethiopia. They are labelled as terrorists by the regime. That was confirmed by 'objective materials' in the appellant's bundle.
6. The fact that he is a low level affiliate to PG7 does not prevent the authorities from persecuting him. The country information before the Judge substantiated that.
7. In reliance on the grounds she submitted that the appellant provided a credible account, backed up by objective evidence which was not considered at all. Nor did the Judge explain why he did not accept his account. In particular the Judge did not take into account the country information by Amnesty International and Human Rights Watch which was before the Tribunal.
8. There was furthermore an inadequate risk assessment. Even if the appellant is "incredible" the Judge failed to take into account that he would be persecuted if returned to Ethiopia, notoriously known for human rights abuse.
9. Ms Taiwo referred to the European Parliament Resolution of January 2016 on the situation in Ethiopia. She referred to paragraph of the resolution, in which it is noted that the Ethiopian authorities arbitrarily arrested a number of peaceful protesters, journalists and opposition party leaders in a crackdown on protests in the Oromia region.
10. She also referred to paragraph G in which it is contended that the government has labelled largely peaceful protesters as "terrorists" applying the anti-terrorism proclamation and is deploying military forces against them.
11. She also referred to paragraph J where it is stated that this is not the first time that Ethiopian security forces have been implicated in serious human rights violations in response to peaceful protests. The government is systematically repressing freedom of expression and association and banning individuals from expressing dissent or opposition. They are politically motivated prosecutions under draconian anti-terrorism laws.
12. There is also reference at paragraph N to the leader of an opposition party living in exile who was arrested in June 2014. He had been condemned to death several years earlier in his absence and has been on death row since his arrest.
13. Ms Taiwo also referred to the Human Rights Watch report of 2016 in which it is asserted that there is repression, arbitrary arrest and detention, torture and cruel and inhuman or degrading treatment or punishment. At page 8 of the report, it is said with regard to "regional security arrangements," that some leading opponents

of the government living in political exile in neighbouring countries have complained that their refugee status has not been protected from harassment. In some cases various prominent opposition figures have been arrested and forcibly returned to Ethiopia and in others, international campaigns or protests by human rights organisations and exiled political groups have reportedly saved refugees from forcible deportation.

14. Ms Taiwo further submitted that the Judge did not properly consider the appellant's sur place activity, vigil photographs, a series of demonstrations, and has not given adequate reasoning, "except for cursory touch", as to why the documentary evidence and documents were not accepted.
15. In that respect she referred to copies of four photographs produced at page 24 of the bundle, containing manuscript notes regarding a protest at Downing Street in October 2016, a protest on 30 September 2014, an EPPF protest at Battersea Park in September 2014 and an largely illegible vigil in June 2015.
16. Ms Taiwo submitted that the appellant is known to be a "cell member" whose membership of the EPPF is known. He is a member of PG7 in the UK. He will return to Ethiopia as a failed asylum seeker. He is likely to be known to the authorities.
17. On behalf of the respondent, Mr Kandola noted that permission to appeal was granted in respect of his risk on return as an EPPF member as well as his sur place activity.
18. With regard to the first ground of appeal, there have been no explicit findings that the appellant was a low level member of the EPPF.
19. The Judge had in fact concluded that the appellant was not a credible witness [22]. In that respect, the Judge noted that the appellant had delayed in seeking asylum after being in the UK for three years. That went to his credibility under s.8 of the 2004 Act.
20. Mr Kandola noted that the Judge also rejected the appellant's evidence regarding an alleged warrant against him. In that respect the Judge noted that the appellant had stated under cross examination that he spoke to his uncle over the telephone a month ago. His uncle claimed that he had been arrested and detained. The Judge found that no good reason was given for that arrest, seeing that his uncle was not involved in any political party. The appellant claimed that his uncle was detained on 20 April 2016 and released on bail on 4 May 2016 on condition that the appellant surrendered himself to the authorities. The appellant claimed that his uncle did everything in his power to return him to Ethiopia. As a result of that incident the appellant claimed asylum.
21. However, the Judge found that there was no good reason for his uncle to have been arrested and detained. Nor was there any realistic possibility that the authorities would have had reason to issue a warrant against the appellant himself some three years later after he left the country - [22].
22. The Judge also found that his explanation for not being able to obtain a copy of the warrant from his uncle was unconvincing. His uncle could have used his mobile

phone to take a picture of the warrant and sent it to the appellant if there were difficulties or risks in sending it by post. [22].

23. The Judge was not satisfied that the membership details relating to PG7 does not relate to December 2016 rather than December 2015. On his own evidence he was a low level member of EPPF from 2010 and merely engaged in collecting money and issuing leaflets and attending meetings.
24. He submitted that the Judge did have regard to the sur place activities between September 2014 and 2016. The dates have been provided by the appellant himself. The Judge was not satisfied that those activities would place him at risk on return to Ethiopia.
25. Mr Kandola submitted that the adverse credibility points are significant. They did not show that the appellant was at real risk. He is not identified as an EPPF member. In the circumstances the Judge found that the appellant has no political profile. His account regarding his uncle had been firmly rejected. He will return as a failed asylum seeker. There was nothing to show that persons in his position, who are returned, are questioned or interrogated subject to any harm.
26. The background evidence produced, such as Human Rights Watch or Amnesty International would most likely have picked up on any evidence that failed asylum seekers in the position of the appellant would be subject to a risk on return.
27. Moreover, he has had very limited sur place activity. There is nothing to show that such meetings are monitored.
28. He submitted that paragraph N of the European Parliament resolution referred to the leader of an opposition party in exile, Mr Tsege who was noted at page 7 of the Human Rights Watch report, to be a UK citizen and Secretary General of Ginbot 7 organisation, a group banned for advocating armed overthrow of the government, who remained in detention in Ethiopia after an unlawful deportation from Yemen. He was not returned from the UK.
29. In reply, Ms Taiwo submitted that a dearth of evidence as to failed asylum seekers did not mean that the appellant would not be at risk. It appears that he has been associated with PGN.

Assessment

30. First-tier Tribunal Judge Sweet made clear findings that the appellant was not a credible witness. He has set out his reasons for coming to that conclusion. Those findings have never been challenged. It was not asserted in the lengthy grounds of appeal that there has been any error of law regarding those findings. That is the context in which his later findings must be assessed.
31. The Judge rejected his claim that his uncle had been arrested and released on condition that the appellant surrenders himself to the authorities. The Judge further found that there would not be any realistic possibility that the authorities would have had reason to issue a warrant against the appellant himself.
32. Moreover, he noted that although the appellant claimed that his uncle had received such a warrant, evidence relating to a warrant was never produced albeit that his

uncle could have used his mobile phone to take a picture of the warrant and then send it to the appellant.

33. The Judge found on the appellant's own evidence that he was a low level member of the EPPF and that he had collected money, issued leaflets and attended some meetings. The Judge was not satisfied that he was a member of the PG7 in the UK since December 2015.
34. The Judge took into account the few occasions between September 2014 and October 2016 where the appellant attended various demonstrations in the UK. There was however no evidence that any such activity is monitored. There was no evidence that any photographs were taken of any of the demonstrators on any of those occasions. Nor was there any evidence of a photographer's presence on such occasions.
35. Nor was any background evidence produced - including from Amnesty International or Human Rights Watch - that on return to Ethiopia the authorities question or interrogate failed asylum seekers.
36. There was no evidence that there was a system in place whereby the Ethiopian authorities might become be aware of the appellant's attendance at four demonstrations between September 2014 and October 2016.
37. In the circumstances, the finding by the Judge at [23] that his few attendances at demonstrations between September 2014 and October 2016 would not place him at risk on return to Ethiopia is sustainable.
38. In summary, the Judge has given a careful and detailed decision. He has clearly set out the evidence produced by the appellant. He has made unchallenged findings relating to the appellant's credibility. The findings and conclusions were properly reasoned and explained.

Notice of Decision

The decision of the First-tier Tribunal did not involve the making of an error on a point of law. The decision shall accordingly stand.

Anonymity direction continued.

Signed

Date 4 July 2017

Deputy Upper Tribunal Judge C R Mailer

