



**Upper Tribunal
(Immigration and Asylum Chamber)
PA/03345/2017**

Appeal Number:

THE IMMIGRATION ACTS

**Heard at Field House
Promulgated
On 5th March 2018**

**Decision & Reasons
On 9th April 2018**

Before

DEPUTY UPPER TRIBUNAL JUDGE FARRELLY

Between

**MR WW
(ANONYMITY DIRECTION MADE)**

Appellant
t

And

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: No appearance

For the respondent: Mr Avery, Home Office Presenting Officer.

DETERMINATION AND REASONS

Introduction

1. The appellant claimed protection on the basis he was an Ethiopian national and if returned would be at risk of persecution. He said his brother was a member of Ethiopian Patriotic Front and the appellant became a supporter. They both were arrested in October 2013 for putting up posters. The appellant was detained during which time he

was abused. He was subsequently taken to hospital and his aunt and uncle were able to secure his release through bribery. He then came to the United Kingdom and continued to support the Ethiopian Patriotic Front.

2. The respondent refused his claim on credibility ground.
3. His appeal was heard at Taylor House by First-tier Judge B Morron on 3 May 2017. In a decision promulgated on 31 May 2017 it was dismissed. The judge did not find the account credible.
4. Permission to appeal was granted by an Upper Tribunal judge on the basis it was arguable the appellant's sur place activities may place him at risk on return and this was not adequately considered. Argument on the credibility points was also allowed.

The Upper Tribunal

5. There was no appearance by the appellant or by any representative on his behalf. The application for permission to appeal had been drafted by solicitors on his behalf. The file indicates he no longer has representatives. Notice of today's hearing was sent to the appellant at his last known address on the 30th January 2018. It is for the appellant to notify the Tribunal of any change of address. In the absence of any explanation, and in giving effect to the overriding objective, I proceeded in the appellants' absence.
6. The grounds criticise the assessment of the appellant's sur plus activities by the judge and contends that the evidence in support of his activities was not adequately considered. Reference was made to the judge's comment at paragraph 53 that it was implausible that the party would decline to support a genuine supporter involved since 2010 who would be at risk on return. The grounds point out that his membership in the United Kingdom was for less than a year.
7. The Ethiopian Patriotic Front reformed and is now known as PG 7. The appellant claims that after he arrived here he became involved with that organisation and took part in various demonstrations. His bundle contained photographs showing him at gatherings in London in November 2016 and February 2017. There also were photographs dated April 2017 taken in Leeds and Manchester. He also produced receipts for his membership fees.
8. The judge refers to this claim and the documents at paragraph 33 onwards. At hearing the appellant explained the photographs. The judge, at para 37, identifies the appellant in the photographs and there is reference to the leader of the London branch in the photographs.
9. Paragraph 39 refers to cross-examination where he was asked why he had not produced any confirmation from the organisation of his

activities. His response was that the party does not provide such material until someone has been a member for at least a year.

10. At paragraph 53 the judge recorded Counsel referring to a witness who had attended with the appellant and agreed to allow time for a late statement to be prepared and the witness called. However, no statement was produced and the individual was not called. The decision records the appellant stating he had a witness who was a party member seen in some of the photographs but they had to leave because of work commitments.

Conclusions

11. The assessment of the evidence was a matter for the judge. At paragraph 51 the judge commented on the appellant being identifiable in the photographs. Potentially they could support his claim of activity in the party but also they could be him posing so that this could be used as evidence in his appeal. Whatever his motives there was no evidence that this would come to the attention of the authorities or that he would be perceived as a supporter.
12. The judge displayed an even-handed approach by not drawing an adverse inference from an inconsistency in the documentation dates because of possibilities of translation errors. The judge did find that the explanation about an e-mail submitted lack credibility.
13. It was open to the judge to comment on the absence of evidence which could have been anticipated, namely an official in the party pledging support for the appellant. I appreciate the appellant's claim is that this would not be done until someone had been involved in a year. It was open to the judge to consider the reasonableness of this, bearing in mind the appellant's claimed background. The judge had attempted to facilitate the appellant by agreeing to accept a statement at a late stage from his witness but this was not produced.
14. Ultimately, it was for the appellant to demonstrate that his sur plas activities endangered him. I see nothing about the decision which indicates a material error of law and the appellant has not attended to argue the point further.
15. The judge also dealt with the appellant's overall credibility. The grounds of appeal in relation to this are generalised. The judge has recorded the evidence presented and has made detailed findings of fact. The appellant's credibility was central to the claim. It was stated at the outset that if he were believed his appeal would succeed.
16. The judge referred to his failure to claim in safe countries but this was not determinative. The judge acknowledged that he had displayed an awareness of the party and sought to make allowances for discrepancies over dates due to the use of different calendars. The judge acknowledged as credible that the appellant and his brother

would be putting up posters together. The judge referred to the absence of any medical evidence to support the claimed abuse whilst in detention. The judge referred to the country information which indicated an active member would be liable to detention and ill-treatment.

17. The judge did not find the appellant's account of the appellant being taken to hospital credible given his claim about what had happened earlier. The judge also found the account of his escape lacked credibility, particularly if he was in as weak a state as claimed.

18. It is for the appellant to demonstrate a material error of law. The decision suggests the judge carefully considered the evidence and the points for and against the claim. I find no error of law demonstrated in the judge's approach.

Decision.

No material error of law has been shown in the decision of First-tier Judge B Morron. Consequently, that decision dismissing the appellant's appeal shall stand.

Francis J Farrelly

Deputy Upper Tribunal Judge

20th March 2018