



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: PA/05652/2016

THE IMMIGRATION ACTS

Heard at Royal Courts of Justice, Belfast
On 17 May 2018

Decision & Reasons Promulgated
On 06 June 2018

Before

UPPER TRIBUNAL JUDGE LANE

Between

DGZ
(ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr McTaggart, instructed by Nelson Singleton Solicitors
For the Respondent: Mrs O'Brien, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant, DGZ, was born in 1993 and is a male citizen of Ethiopia. He claims to have left Ethiopia in April 2015 and travelled to the USA where he then boarded a ship which arrived in the Republic of Ireland in December 2015. The appellant thereafter travelled to Belfast and claimed asylum on 15 December 2015. By a decision dated 20 May 2016, the respondent refused the appellant's application for international protection. The appellant appealed to the First-tier Tribunal (Judge Hutchinson) which, in a decision promulgated on 11 April 2017, dismissed the appeal. The appellant now appeals, with permission, to the Upper Tribunal.

2. The appellant claimed to have been a member of and active within an Ethiopian opposition group, Ginbot 7. The judge did not find the appellant's account to be credible. At [27], she made the following findings:

The posts and reposts are at times incoherent although I accept they do have a general anti-regime flavour. However, it is unclear from the evidence produced who has access to these Facebook posts; it being within the knowledge of the Tribunal that Facebook access can, if the user wishes, be restricted to who the user chooses to post to. In relation to the YouTube posts the Tribunal was provided only with screenshots and it is entirely unclear what the content of these videos are, although I accept that there are some references on the print outs to 'must freedom in Ethiopia' and some disparaging reference to the regime in Ethiopia, including 'we will continue until Woyane dead'. Again however, it is unclear how widely these have been disseminated. Although one post appears to have over 300 views most are much less than this, with many videos having much fewer than 50 views. The appellant is also listed as having just 14 subscribers. Although the appellant states that he was told by Patriotic Ginbot 7 to be active online in this way, as already noted, there was no adequate information that this was the case, where such ought to have been available from the organisation. I am not satisfied that it has been demonstrated, to the lower standard that this is the case and I am of the view that the appellant has been acting purely in an attempt to bolster his weak asylum claim and is attempting to create a political profile for himself, where none exists.

3. Likewise, at [28] the judge made the following findings regarding the appellant's claimed membership of Patriotic Ginbot 7:

The appellant has also now produced evidence of claimed membership in the form of an email dated 23 February 2017 to the appellant's solicitor and a letter of 22 February 2017 from the US office of Patriotic Ginbot 7. Although the letter states that the appellant is 'actively engaged in the activities of the movement' it is silent as to what the appellant's claimed activities for the organisation have been. I accept that the appellant referred repeatedly at his hearing to his membership 'code' 9595, which is referred to in the email attaching the letter. I also accept, as indicated above, that there is evidence of 3 Nationwide payments in January, February and March 2017 and that there is an untranslated email containing those bank details from an individual who is also mentioned in the email from the US branch of Patriotic Ginbot 7. In addition subsequent to his appeal the appellant has provided a 3 July 2016 email 'welcome to Patriotic Ginbot 7 which also includes the aims of the organisation and states that you are 'expected to be part of a cell and practically participate in the movement'. Although the evidence is sparse (and the lack of adequate information adds to the general doubt) I am prepared to accept to the lower standard that the Nationwide payments is evidence is some sort of payment made by the appellant which has resulted in the subsequent letter from Patriotic Ginbot 7. Although the appellant claimed in oral evidence that he became a member in July 2016 (which appears to be confirmed by the production of the email after his hearing), there is no adequate evidence why he has only made payments in January, February and March 2017. The letter from the US branch, dated 23 February 2017 makes no reference to the appellant having been a member since the previous July, and the payments and untranslated email all date from 2017.

4. As regards the appellant's claimed *sur place* activities in the United Kingdom, the judge made the following findings:

Although the appellant is now in receipt of a letter from the US branch confirming his membership, as noted, the origins of this claimed membership are far from clear. Although he has now provided evidence that he is recorded by the organisation as a member, there is no adequate information or evidence of any 'activities' as a member of Patriotic Ginbot 7 (and as noted I do not accept that his posts online were in this context) despite the fact that the July 2016 email indicates that 'members are expected to allot substantial amount of resources (money, knowledge, skill, time... etc)'. The appellant has also provided evidence in the form of photographs, including that he has posted on line, showing him in London on two occasions, he states in relation to Patriotic Ginbot 7. Again in the context of all the evidence in the round, his trips to London in November 2016 and February 2017, coming as they have well after the refusal of his asylum claim and before his appeal, are in my findings entirely self-serving and only for the purposes of his asylum appeal.

5. When assessing risk on return, the judge observed at [33]:

I have reminded myself that the fact that I find the appellant's attendance at events in London, his securing of an email and a letter from Patriotic Ginbot 7 confirming that he is a member, and his online activity to be entirely self-serving does not obviate the need to consider whether of themselves these activities would put the appellant at risk on return.

6. The appellant observes that there is no country guidance from the Upper Tribunal on the question of *sur place* activities in particular on the internet by those involved in Ethiopian opposition politics. However, an Ethiopian government proclamation which was in the bundle of papers before the First-tier Tribunal indicates that a member of the organisation is likely to be regarded as someone who is part of a "terrorist organisation", an offence attracting a minimum five year prison sentence. Further, it is asserted that the judge failed to take account of evidence in the appellant's bundle which indicated that the Ethiopian government attempts to monitor individuals inside and outside Ethiopia who support Ginbot 7 using a web tool "FinFisher".
7. I find that the grounds of appeal lack merit. The judge accepts that if the appellant were imprisoned for alleged Ginbot 7 activities in Ethiopia then he would suffer persecution. However, she is equally clear that the appellant is not reasonably likely to come to the attention of the Ethiopian authorities at all. I find that the judge was fully entitled to have regard to material before her including the Country Information and Policy Note of December 2016 to which she refers at [35]:

In reaching this finding I have considered the background material relied on including the respondent's December 2016 Country Information and Policy Note (at page 238 of the appellant's bundle) which confirms at section 3 that if the authorities have already linked a person to a designated terrorist group (which includes Ginbot 7) or they or their family have a political profile or come to the attention of the authorities, they are at risk. I rely on my findings that the appellant and his family do not have such a profile and have not previously come to the attention of the authorities in Ethiopia.

8. The judge was singularly unimpressed by the account which the appellant had given of his joining Ginbot 7 which the judge described as a "round about way" [18]. She observed at [39]:

In reaching this finding I have taken into consideration that the background information indicates that the Ethiopian government consider Ginbot 7 to be a terrorist organisation. Considered in the round however, the appellant's attempt to bolster a fabricated account by attempting to show *Sur Place* activity through belatedly posting on the internet and being photographed at a claimed demonstration and fundraiser (with no adequate evidence of the context in which those photographs were taken and no other adequate information as to the appellant's claimed activities at those demonstrations other than having his photograph taken) and obtaining a membership email and a much later letter from the USA stating that he is a member, does not demonstrate that he would come to the authorities attention or otherwise be at risk on return.

9. Those were, in my opinion, findings fully available to the judge on the evidence. The judge concluded by making two crucial findings at [42] and [43] respectively. At [42] she concluded, "It has not been shown, to the lower standard, that the appellant's lack of any profile in Ethiopia in my findings and his relatively limited activities in the UK and online and the fact that he appears to have nominally become a member will bring him to the attention of the Ethiopian authorities". At [43] the judge found that "The Ethiopian authorities' monitoring activity online ... seeks to prevent [activities] in Ethiopia by blocking the internet and physically searching smart phones. There was no adequate information or evidence to suggest that the [Ethiopian] authorities can or do monitor online activity of political unknowns abroad such as the appellant". Those conclusions were available to the judge on the evidence; the grounds of appeal are no more than a disagreement with those findings. In the circumstances, the appeal is dismissed.

Notice of Decision

10. This appeal is dismissed.

Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008

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.

Signed

Date 1 JUNE 2018

Upper Tribunal Judge Lane

TO THE RESPONDENT
FEE AWARD

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

Signed

Date 1 JUNE 2018

Upper Tribunal Judge Lane