Upper Tribunal
(Immigration and Asylum Chamber) **Appeal Number: PA/08074/2017**

THE IMMIGRATION ACTS

Heard at Liverpool	**Decision Promulgated**
On 12 March 2018	**On 13 March 2018**

Before

DEPUTY UPPER TRIBUNAL JUDGE PICKUP

Between

GH
[ANONYMITY DIRECTION MADE]

Appellant

And

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr M Semega-Janeh, instructed by UK Law
For the Respondent: Mr C Bates, Senior Home Office Presenting Officer

DECISION AND REASONS

1. This is the appellant's appeal against the decision of First-tier Tribunal Judge Shore promulgated 1.12.17, dismissing on all grounds his appeal against the decision of the Secretary of State, dated 9.8.17, to refuse his protection claim.

2. First-tier Tribunal Judge Birrell granted permission to appeal on 22.12.17. Thus the matter came before me on 12.3.18 as an appeal in the Upper Tribunal.

Error of Law

3. In the first instance I have to determine whether or not there was an error of law in the making of the decision of the First-tier Tribunal such that the decision should be set aside.

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4. In essence, the grounds assert that the First-tier Tribunal Judge erred in that his findings in relation to the core of the appellant's case that he was at risk on return because of his association with the political group G7, were inadequate.

5. In granting permission to appeal, Judge Birrell considered it arguable that the judge only assessed the appellant's claim by reference to the screening interview (SI) and failed to engage with the asylum interview and oral evidence.

6. Up to [94] of the decision the judge made a detailed report of the evidence and submissions taken into account in the making of the decision. The appellant's case is adequately summarised, and no complaint is made in that regard.

7. The basis of the protection claim was that the appellant's brother was a member of the political activist group in Ethiopia known as G7 and PG7. The appellant also became a supporter. Whilst attending a cell meeting in 2016 the police surrounded the building. Whilst his brother was arrested the appellant managed to evade detention, as he was visiting the toilet at the time. However, his jacket containing his ID was seized, so that he fled Ethiopia in fear of his life.

8. It was common ground that if the appellant was genuinely affiliated with G7 he would be at risk of persecution and mistreatment on return to Ethiopia. This was accepted by the judge at [98]. The appeal turned on the credibility of his claim that he was sufficiently associated with G7 to put him at risk.

9. At first sight, the way in which [99] of the findings is drafted suggests that the judge assessed the appellant's case solely by reference to the SI and ignored the AIR and his witness statement and oral evidence.

10. As is clear from the SI pre-printed questions, he was asked to state briefly all of the reasons why he cannot return to his home country. He stated, "The government is not happy I am not a member of any politics. There is no peace. The government I am in fear. Why? If I go back they will kill me because of racists." Earlier in the SI when asked why he had come to the UK, he said, "Because there is no peace in Ethiopia. I have to come here."

11. The SI is not intended to be a full account of the appellant's protection claim, but he is expected to be truthful and can reasonably be expected to raise the core basis of his asylum claim. However, as the judge noted at [99], there was no reference to any political involvement. More than, that the appellant specifically stated that he was not a member of any political group; that only became the appellant's case in his later accounts. Such a positive assertion of belonging to no political group is absolutely clear but entirely inconsistent with the claim made in the substantive interview.

12. In assessing what weight to give to the SI, the judge took into account that the appellant might be nervous and at [96] specifically took into account that a person fleeing political persecution in fear of his life may be

daunted and intimidated when questioned by a government official. The judge did not find it implausible that the appellant would not find it easy to trust and be entirely open in the SI. However, after taking those considerations into account, the judge went on to explain at [99] that he could not accept that if the appellant had fled Ethiopia because of his association with PG7 he would not simply have stated that in the SI.

13. It is important to observe that the SI in this case was rather more substantive than answers to pre-printed questions. I note that in the handwritten supplementary questions in the SI, the appellant was caught out in a lie, having claimed to have flown directly from Sudan to the UK. Further detailed questioning followed. When asked again what it was he feared from Ethiopia, he replied that the government would kill him. It was suggested that nothing had happened to him. He replied only that he didn't believe in a separate racial government. Asked if he had been hurt or injured by the government, he said that no one touched him. It is clear that he had every opportunity to set out his claimed political involvement. It is also clear that he was quite capable of answering questions.

14. The judge found that the failure to mention political involvement in the SI undermined the credibility of the later claims. Effectively, the judge has concluded that this was because he only invented that claim, raised 4 months subsequently in the substantive interview. I am satisfied that it is not the case that the judge simply ignored the other evidence. Having given a careful account of that evidence in the earlier part of the decision, the judge took all of the evidence into account, in the round before making his findings. Indeed within [99] the judge referred to the SER, AIR, witness statement and oral evidence. He made some findings in the appellant's favour but found him a vague and ultimately unreliable witness. A reading of the judge's account of his oral evidence explains that finding. It is also clear that the judge took into account in this same assessment the evidence relating to the appellant's Facebook activity and the alleged warrant.

15. In summary, the judge concluded that little weight could be given to the appellant's subsequent witness evidence, primarily because he had so comprehensively undermined his case at the start, i.e. in failing to mention political activity within the SI. I am satisfied that this was a conclusion open to the judge and for which, however brief, adequate and cogent reasons have been provided.

16. I have taken into account Mr Semega-Janeh's submissions that an examination of the AIR demonstrates good reasons for the appellant's failure to mention political involvement in his SI. At Q8 he claimed that he struggled to understand and that he was scared and tired. In later answers he also mentioned having a headache and having hearing loss. However, these submissions were in effect an attempt to reargue the appeal. I also note that the appellant did not appear to have any difficulty in hearing, understanding or answering the questions.

17. Complaint is also made that the judge wrongly required corroboration of the appellant's account. However, within his findings, the judge made it clear that in asylum cases corroborative documentary evidence will not always be available. In essence, the judge is self-directing himself that the absence of corroboration is not undermining of the claim.

18. There was potentially some corroboration of the appellant's case in the form of the purported arrest warrant. This was considered at [100] to [101], where the judge found the document unreliable, applying Tanveer Ahmed. The judge gave perfectly good reasons for this finding, noting that it was not credible (unlikely) that an official document from a government department would have a Yahoo email address. That finding was entirely open to the judge on the evidence. Whilst the judge there (at [101], mentioned that there was no other corroborative evidence of the appellant's version of events in Ethiopia, this was not the making of an adverse finding because of the lack of corroboration. Mr Semega-Janeh submitted that the judge should have given greater weight to the arrest warrant. Again, this is an attempt to reargue the appeal. The judge gave cogent reasons for the findings, including for discounting the arrest warrant on the basis that the appellant failed to demonstrate that it was a reliable document.

19. The judge also dealt with the Facebook evidence in the context of the appellant's claimed association with PG7 in the UK, at [103]. The judge noted that whilst he was on Facebook, he had made no attempts to use this social media to find his brother. The judge took into account that he may not wish to implicate his friends on Facebook as possible G7 supporters but pointed out that he could have communicated with them through Facebook in a "subtle" way. In his submissions, Mr Bates pointed out that individuals can make Facebook postings and communications private including by messages and by applying privacy settings to his Facebook page. Given that the appellant claimed involvement with G7 in the UK it was reasonable to expect him to produce some evidence of that but none was produced.

20. I am satisfied that it is clear that it was only after considering all of the evidence that the judge concluded, at [104], that even applying the lower standard of proof, the appellant failed to demonstrate that he was involved with G7 as claimed. At [107] the judge confirmed that in assessing the evidence he had taken the findings of fact and applied the relevant country evidence. In the circumstances I conclude that no material error of law has been disclosed in the decision of the First-tier Tribunal.

Conclusion & Decision

21. The making of the decision of the First-tier Tribunal did not involve the making of an error on a point of law such that the decision should be set aside.

I do not set aside the decision.

The decision of the First-tier Tribunal stands and the appeal remains dismissed on all grounds.

Signed
Deputy Upper Tribunal Judge Pickup

Anonymity

I have considered whether any parties require the protection of any anonymity direction. No submissions were made on the issue. The First-tier Tribunal did make an order pursuant to rule 13(1) of the Tribunal Procedure Rules 2014.

Direction Regarding Anonymity - Rule 13 of the Tribunal Procedure (First-tier Tribunal) (Immigration and Asylum Chamber) Rules 2014

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 their family. This direction applies both to the appellant and to the respondent. Breach of this direction may lead to proceedings for contempt of court.

Fee Award *Note: this is not part of the determination.*

In the light of my decision, I have considered whether to make a fee award pursuant to section 12(4)(a) of the Tribunals, Courts and Enforcement Act 2007.

I have had regard to the Joint Presidential Guidance Note: Fee Awards in Immigration Appeals (December 2011).

I make no fee award.

Reasons: No fee is payable and thus there can be no fee award.

Signed

Deputy Upper Tribunal Judge Pickup