



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

Appeal Number: PA/03915/2018

**THE IMMIGRATION ACTS**

**Heard at Civil Justice Centre, Manchester**

**Decision & Reasons**

**On 25 September 2018**

**Promulgated**

**On 9 January 2019**

**Before**

**UPPER TRIBUNAL JUDGE LANE**

**Between**

**[M B]**

**(~~ANONYMITY DIRECTION NOT MADE~~)**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr Draycott, instructed by Wimbledon Solicitors

For the Respondent: Ms Aboni, Senior Home Office Presenting Officer

**DECISION AND REASONS**

1. The appellant, [MB], was born on [~] 1988 and is a male citizen of Ethiopia. The appellant claims to have entered the United Kingdom on 13 October 2017 and claimed asylum. By a decision dated 12 March 2018, the Secretary of State refused the appellant international protection. The appellant appealed to the First-tier Tribunal (Judge Alis) which, in a decision promulgated on 2 May 2018 dismissed the appeal. The appellant now appeals, with permission, to the Upper Tribunal.

2. I find that the appeal should be allowed. My reasons for reaching that decision are as follows. First, I find that the judge erred in law by allowing evidence to be given by the court interpreter as regards the Ethiopian calendar. At [62] and [63] Judge Alis wrote:
  - “62. This takes me to what I view as a core issue in his claim as to what happened in Ethiopia namely the circumstances around his detention and the ‘summons’ produced by the appellant in support of his appeal.
  63. I spent some time at the hearing trying to identify the correct dates and I was not helped by an erroneous translation of the summons. Dates in the summons were incorrect and they referred to English dates – they referred to the months of May and July and not the dates from the Ethiopian calendar. The court interpreter helpfully assisted us and identified from the original document that the relevant dates were 18 July 2017 for the date of the summons and 22 June 2017 the date of the arrest and 16 July 2017 for the date of [the appellant’s] release.”
3. The judge notes [64] that the appellant claimed in his interview and statement and in oral evidence that he had been arrested on 7 June 2017 and that “until today there has been no suggestion that that date was incorrect.” In consequence, the judge found that the appellant had not been arrested or that the appellant is a person of interest to the authorities on account of his involvement with Oromo opposition politics.
4. In his grounds of appeal, Mr Draycott, who appeared for the appellant, refers to the interpreter having converted the dates “to the Gregorian calendar using an App of uncertain provenance on his phone.”
5. The Secretary of State has served a Rule 24 notice on 15 July 2018. This notice accepts that the judge erred in law “in requiring the Tribunal interpreter to give evidence in respect of dates recorded on the summons that the appellant contended had it been issued for him by the Ethiopian authorities following his escape from custody and attaching adverse weight to this evidence.” However, the letter goes on to submit that the error was not “material” to the outcome of the appeal. The Secretary of State argues that “it is submitted that when the rest of the judge’s findings are considered between paragraphs 52 and 69 it is very difficult to see how this area alone would cause the appeal to be allowed to the extent of a remittal or reversal of the decision.”
6. I agree with Mr Draycott that there are, in essence, only two reasons which the judge gives for having disbelieved the appellant’s account. The first concerned the inconsistencies of the dates (see above) and the second the appellant’s failure to refer to a summons which he claims was served on him when he gave an account of past events in Ethiopia at his asylum interview. Paragraphs referred to in the Rule 24 letter do not consist in the main of firm findings against the appellant. The judge refers to there being “very little evidence” of the appellant’s activities in Ethiopia and the judge considers it “strange” the appellant had not relied upon evidence of

other individuals who he claims are connected with the OLF (Oromo Liberation Front). I agree with Mr Draycott that inconsistencies concerning the dates on the summons document were significant in leading the judge to reject the appellant's account. I also agree with him that it is not satisfactory to allow the court interpreter to provide conversion of dates from one calendar to another without identifying the means by which such a conversion is undertaken. The Secretary of State does not challenge the statement that the court interpreter used a "App of uncertain provenance" and I accept it was not fair to the appellant for such a conversion method to be used without the appellant knowing what it was or being able to verify the converted dates produced by the application. To that extent, I find that the appellant did not have a fair hearing of his appeal.

7. Mr Draycott submitted that I should allow the appeal outright. I have considered doing so but have decided that I should not. Mr Draycott's grounds of appeal provide a different conversion of the Ethiopian calendar (and make reference to a website) which, Mr Draycott submits, produces a result which is consistent with the appellant's evidence. That may well be the case but I do not consider that simply adopting another online conversion method will put right the injustice to which the appellant has been subjected. I also consider that some of the observations made by the judge regarding the appellant's failure to refer to the summons at interview may have some weight; the difficulty is in knowing to what extent the judge found against the appellant because of the problems over the conversion of the dates in the summons or for other reasons. I consider the only safe course of action is for there to be a hearing *de novo*. Prior to that hearing, the appellant's representatives must take steps to address the question of the dates in the summons and, at least 10 days prior to any new hearing, provide the Secretary of State with particulars of the method of conversion of any dates so that the respondent may counter-check these.

### **Notice of Decision**

8. The decision of the First-tier Tribunal which was promulgated on 2 May 2018 is set aside. None of the findings of fact shall stand. The appeal is returned to the First-tier Tribunal (not Judge Alis) for that Tribunal to remake the decision.
9. No anonymity direction is made.

Signed

Date 20 October 2018

Upper Tribunal Judge Lane