



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

**Appeal Number: PA/10540/2017**

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 10 April 2019**

**Decision & Reasons Promulgated  
On 11 April 2019**

**Before**

**UPPER TRIBUNAL JUDGE FINCH**

**Between**

**YASSER [A]**

**Appellant**

**and**

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

**Respondent**

**Representation:**

For the Appellant:

Mr. J. Howard, a solicitor from Fountains Solicitors

For the Respondent:

Mr. N. Bramble, Home Office Presenting Officer

**DECISION AND REASONS**

**BACKGROUND TO THE APPEAL**

1. The Appellant is a national of Sudan. He left there in 2014 but did not arrive in the United Kingdom until 8 May 2017. He claimed asylum when he arrived here. It is his case that the

Sudanese authorities wanted him to provide information about those living in Darfur and that he was detained and tortured by the authorities. His application was refused on 4 October 2017. The Respondent also found that his removal would not amount to a breach of his private or family life rights.

2. The Appellant appealed against this decision on 18 October 2017 and explicitly stated that articles 2, 3 and 8 of the European Convention on Human Rights would be breached if he were to be removed from the United Kingdom.
3. His appeal came before First-tier Tribunal Judge Grimmett on 6 September 2018 and she dismissed his appeal in a decision promulgated on 17 September 2018. The Appellant was granted permission to appeal against this decision by First-tier Tribunal Judge O'Keefe on 8 October 2018.

#### **ERROR OF LAW HEARING**

4. The solicitor for the Appellant noted that the Rule 24 response stated that the Respondent did not oppose the Appellant's application for permission to appeal in respect of the human rights issues and the Home Office Presenting Officer confirmed that this was the case. He also accepted that First-tier Tribunal Judge Grimmett failed to address the question of whether the Appellant would be at risk of persecution as a failed asylum seeker if removed to Sudan.

#### **ERROR OF LAW DECISION**

##### **THE HUMAN RIGHTS APPEAL**

5. The Appellant's grounds of appeal identify that he had appealed on both asylum and human rights grounds. Paragraphs 20 -25 of the skeleton argument submitted on his behalf in the First-tier Tribunal also addressed his rights under Article 8 of the ECHR.
6. In addition, the record of proceedings confirmed that the Home Office Presenting Officer had made brief oral submissions in relation to whether the Appellant was entitled to leave to remain under paragraph 276ADE of the Immigration Rules.

7. As a consequence, the First-tier Tribunal Judge had failed to take into account part of the Appellant's case or reach any reason for dismissing this part of his appeal. This was clearly an error of law.

## **THE ASYLUM APPEAL**

8. The Appellant's second ground of appeal was that First-tier Tribunal Judge Grimmett had failed to give any weight to the letter, dated 8 November 2017, from the Chairman of Darfur Fur Community UK & N Ireland.
9. This was also an arguable error of law as she gave great weight to the fact that the Appellant could not speak the Fur language. Therefore, she should have considered all of the evidence which went towards this issue, which included this letter, as it stated that he was a member of the Fur community and that his family originated in Zalengei. She also failed to take into account the fact that the Appellant had consistently asked for a Fur (Sudanese) interpreter or that his appeal had been adjourned on three occasions as no such interpreter had been provided.
10. First-tier Tribunal Judge Grimmett also failed to take into account any of the objective evidence relating to Darfur or consider whether the inconsistencies noted by the Respondent in his decision letter were accurate.
11. In addition, the Judge failed to assess whether the Appellant would be at risk of persecution in Sudan as a failed asylum seeker. She also failed to take into account the guidance provided in *AA (Non Arab Darfurians – relocation) Sudan CG* [2009] UKAIT 00056 and *MM (Darfuris) Sudan CG* [2015] UKUT 00010 (IAC).
12. For these reasons the manner in which the Appellant's asylum appeal was heard contained errors of law.

## **DECISION**

- (1) The Appellant's appeal is allowed.
- (2) The appeal is remitted to the First-tier Tribunal to be heard *de novo* before a First-tier Tribunal Judge other than First-tier Tribunal Judge Grimmett or Boylan-Kemp or O'Keefe.

**Nadine Finch**

Signed  
Upper Tribunal Judge Finch

Date 10 April 2019