



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

Appeal Number: PA/09535/2019 (P)

THE IMMIGRATION ACTS

**Decision under Rule 34 without a hearing
29th June 2020**

**Decision and Reasons Promulgated
On 13th July 2020**

Before

UPPER TRIBUNAL JUDGE COKER

Between

**HM
(anonymity order made)**

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

DETERMINATION AND REASONS (P)

Pursuant to Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 (SI 2008/269) I make an anonymity order. Unless the Upper Tribunal or a Court directs otherwise, no report of these proceedings or any form of publication thereof shall directly or indirectly identify the appellant in this determination identified as HM. This direction applies to, amongst others, all parties. Any failure to comply with this direction could give rise to contempt of court proceedings

1. FtT Judge Phull dismissed HM's appeal against the refusal of his international protection and human rights claim for reasons set out in a decision promulgated on 21st January 2020. Permission to appeal was granted by FtT Judge Scott-Baker on 3rd March 2020. Directions for the further conduct of the appeal were sent and, in the circumstances surrounding COVID 19, provision

was made for the question of whether there was an error of law and if so whether the decision of the FtT Judge should be set aside to be determined on the papers.

2. Both parties complied with the directions; neither party sought an oral hearing.
3. I am satisfied that the submissions made on behalf of the appellant and the respondent together with the papers before me¹ are sufficient to enable me to be able to take a decision on whether there is an error of law in the decision of the FtT and if so whether the decision should be set aside, on the papers and without hearing oral submissions.
4. The grounds of appeal centred around the claimed failure of the FtT judge to place adequate or any weight upon the reports dealing with the authenticity of the police warning letter. The FtT judge had accepted the appellant had been detained in 2005 and 2011 and thus, it was submitted, the judge erred in law in not accepting the authenticity of the warning letter he claimed to have received which went to the heart of his claim that he would be at risk on his return to Ethiopia.
5. The FtT judge held as follows:
 21. I accept the appellant's evidence as credible that he was beaten and tortured in 2005 because he is an Amhara and in 2011 because he was perceived to be affiliated with Ginbot 7. I find the background CPIN corroborates his evidence at 10.5.4 that, "... it has historically been impossible to determine whether a detainee was in reality a member of an opposition group, a sympathiser or without any connection 156 UN Human Rights Council, according to representative of the British Embassy ...²". Having considered this evidence as a whole, I find the appellant's evidence of his arrest, detention and torture in 2005 and 2011 to be credible, as supported by the scarring and CPIN report. I should point out that none of this evidence was challenged during cross examination.
 22. The appellant alleges that in 2018 he was arrested and later released on payment of a bribe and then left the country. He has recently found that there is a police letter for his arrest. His wife sent him the document via a friend. A translation of the arrest warrant is filed in evidence (page 23, ASB). The appellant asserts that the letter is genuine, and he will be arrested on return to Ethiopia.
 23. The appellant relies on the expert and addendum report of Professor Mario Aguilar dated the 9 April and 5 December 2019 on the authentication of the arrest warrant. Professor Aguilar has set out his qualifications and experience at length in his report. Briefly, he is a fellow of the Royal anthropological Institute, and is a direction of the Centre for the study of Religion and Politics at the University of St Andrews. He follows the history and contemporary developments in Ethiopia in the context of his research on the Oromo of Ethiopia and Kenya and has published extensively on this subject. He teaches and conducts research at St Andrews.

¹(a) the respondent's bundle; (b) the two bundles filed on behalf of the appellant and the 'authentication' report; (c) the decision of FtT judge Phull; (d) The application for permission to appeal; and (e) the grant of permission to appeal.

²It seems this extract from the FtT judge's decision includes footnote 156 of the CPIN

24. His instructions were to outline the methodology used to assess the authenticity of the document and to outline clear, unambiguous and detailed reasons for confirming whether the document is genuine or not. Ms Arif submitted that the report should not be relied upon because Professor Aguilar was not an expert in authenticating documents. At paragraph 12 of the report, the professor sets out his methodology. He states that his expertise lies within the knowledge of socio-political matters and considers within such expertise the examination of certain documents including arrest warrants. He states that he has asked Dr Zewde an Ethiopian scholar with first hand knowledge of Amharic to examine the documents and comment on the accuracy of the translation.
 25. I find that the Professor has failed to attach Dr Zewde's curriculum vitae and details of his experience and expertise to comment on the police letter as well as a hard copy of the latter's comments. Dr Zewde has not set out his expertise in authenticating logos used by the Ethiopian authorities. Professor Aguilar relies partially on the comments made by Dr Zewde that the police report is authentic.
 26. I find there is a lack of cogent evidence of Dr Zewde's expertise to make the comments relied on by Professor Aguilar in his report. I therefore find the appellant has not satisfied to the required standard that the police report is authentic, as claimed. As I find the police report is not authentic, I find the appellant does not satisfy that there is a reasonable likelihood he would not be of adverse interest to the Ethiopian police on return.
 27. ... I accept that he has attended meetings and demonstrations in London to raise international attention, against the arrest, killings in Ethiopia.
 28. I find there is a reasonable likelihood that the appellant supported Ginbot 7 in the past and the Ethiopian Authorities considered it to be a terrorist organisation...
 29. ...
 30. I find the background evidence satisfies that whilst Ginbot 7 was a proscribed group, the opposition parties, including Ginbot 7, have dissolved and the focus now is on stability of the country and democratisation. I find therefore that the appellant would not attract adverse attention from the authorities on return to Ethiopia for his past involvement in Ginbot 7.
 31. Turning to the appellant's Sur Place activities, I find would not attract adverse attention on return
 32. I find the appellant would not be at risk on return for his Sur Place activities because the background evidence satisfies that under the new prime minister the situation for the diaspora is less threatening and those who decide to return are allowed to reintegrate into society and set up private business Ethiopia. I therefore find can return to his home area or move to Addis Ababa, where many Amhara live.
6. In written submissions the appellant's solicitors reinforce their ground that had adequate weight been given to the expert report, the outcome would have been different.
 7. The FtT judge set out the evidence and accepted much of the appellant's account. There is no requirement on a judge to accept the totality of an account because part or much of an account is accepted. In this case, the appellant relied upon a report to authenticate an arrest warrant. The absence of identification of expertise of Dr Zewde and the area of expertise of professor Aguilar were matters that the judge was entitled to consider, which he did

holistically in the context of the background evidence before him. The conclusion that the arrest warrant was not reliable was a conclusion that was open to him on the evidence before him.

8. In any event, the judge considered the potential return of the appellant in the context of the situation in Ethiopia now, taking full account of the appellant's sur place activities and his past support for Ginbot 7. For reasons substantiated by the background evidence, the judge found the appellant was not at risk. It follows that even if the judge were incorrect in his conclusion as to the authenticity of an arrest warrant, issued some 2 years ago and prior to the changes in the country and the dissolution of Ginbot 7, the appellant is not at risk of being persecuted on his return to Ethiopia.
9. There is no error of law in the FtT decision such that the decision is set aside to be remade.

Conclusions:

The making of the decision of the First-tier Tribunal did not involve the making of an error on a point of law.

I do not set aside the decision; the decision of the FtT stands

Anonymity

The First-tier Tribunal made an order pursuant to rule 13 of the Tribunal Procedure (First-tier Tribunal) (Immigration and Asylum Chamber) Rules 2014.

I continue that order (pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008).

Jane Coker

Date 29/06/2020

Upper Tribunal Judge Coker