



Upper Tribunal

(Immigration and Asylum Chamber)

Appeal Number: UI-2021-001702

PA/51535/2020; IA/01083/2020

THE IMMIGRATION ACTS

**Heard at Bradford
On the 6 September 2022**

**Decision & Reasons Promulgated
On the 11 October 2022**

Before

**UPPER TRIBUNAL JUDGE LANE
DEPUTY UPPER TRIBUNAL JUDGE ALIS**

Between

**TZ
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms Cleghorn

For the Respondent: Mr McVeety, Senior Presenting Officer

DECISION AND REASONS

1. The appellant claims to be a citizen of Ethiopia and Eritrea. He appealed to the First-tier Tribunal against a decision of the Secretary of State dated 14 September 2020 refusing him international protection. On the same day, he was granted 3 years' leave to remain on the basis of his family life (Article 8 ECHR). The First-tier Tribunal dismissed his international protection appeal and the appellant now appeals to the Upper Tribunal.
2. At the initial hearing on 6 September 2022, Mr McVeety, Senior Presenting Officer, told us that the Secretary of State now accepts that the judge's

decision contains a material error of law and that the decision should be set aside. He told us that the respondent accepts that Ground 1 is made out. That ground is helpfully summarised by Judge Landes in her grant of permission at [2]:

I consider ground 1 to be arguable at least so far as issues 2 and 3 are concerned. The appellant did not say (issue 2) at 1.3 screening interview that the passport was not genuine. He said that the visa application was not genuine. His case does not appear to have been that the passport he produced was not genuine (in the sense that it was not genuinely issued by the Ethiopian authorities) but rather that it was based on documents which were incorrect or false. It is not clear at [16] whether the judge was using “genuine” in the sense of genuinely issued by the authorities or bearing the appellant’s correct details; if bearing the appellant’s correct details is meant it is difficult to see why the failure to raise any issues with the passport would mean that it was not “genuine” (and, I observe, the judge found to the lower standard that the passport was genuine, which appears to be the wrong way round given the standard of proof); if not genuinely issued by the authorities was meant then the judge was deciding a matter against the appellant which the appellant had not put in issue. Findings as to the passport are directly relevant and not just to an overall assessment of credibility because it was the appellant’s case that having false documents may put him at risk [12]. I consider issue 1 has less merit in that the appellant does appear to be saying what is convenient at the time (for example in screening interview he maintained he had no nationality other than Eritrean).

3. In the circumstances, we set aside the First-tier Tribunal’ decision. None of the findings of fact shall stand. There will need to be a fresh fact-finding exercise which is better conducted in the First-tier Tribunal to which this appeal is now returned for that Tribunal to remake the decision following a hearing *de novo*.

Notice of Decision

The First-tier Tribunal’s decision is set aside. None of the findings of fact shall stand. The appeal is returned to the First-tier Tribunal for that Tribunal to remake the decision following a hearing *de novo*.

Signed

Date 6 September 2022

Upper Tribunal Judge Lane

Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008,
the appellant is granted anonymity.

No-one shall publish or reveal any information, including the name or address of the appellant, likely to lead members of the

public to identify the appellant. Failure to comply with this order could amount to a contempt of court.