



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

Appeal Number: IA/01806/2020
[PA/52052/2020]

THE IMMIGRATION ACTS

**Heard at Manchester
On 28 January 2022**

**Decision & Reasons Promulgated
On 09 February 2022**

Before

UPPER TRIBUNAL JUDGE LANE

Between

**TKA
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms Smith

For the Respondent: Ms Young, Senior Presenting Officer

DECISION AND REASONS

1. The appellant claims to be a citizen of Eritrea who was born in 1991. He appealed to the First-tier Tribunal against a decision of the Secretary of State dated 7 October 2020 refusing his claim for international protection. The First-tier Tribunal, in a decision dated 31 August 2021, dismissed his appeal. The appellant now appeals, with permission, to the Upper Tribunal.
2. At the initial hearing, Ms Young, who appeared for the Secretary of State, told me that the respondent considers that the decision of the First-tier Tribunal is flawed by legal error such that it should be set aside. She told

me that the respondent considered that the judge's consideration of the expert evidence of Dr Bekalo was inadequate for reasons given in the grounds of appeal. I agree. In addition, I am not satisfied that the judge has applied *Devasseelan* [2002] UKIAT 00702* satisfactorily. The judge accepted that the appellant's evidence 'is likely to contain discrepancies and errors as a result of the torture he suffered' but he fails to determine how, if at all, that fact should alter his view of the findings of the previous Tribunal in 2017 given that the torture pre-dated that decision.

3. In the circumstances, I set aside the First-tier Tribunals' decision. None of the findings of fact shall stand. There will need to be a fresh fact-finding exercise which is better conducted by the First-tier Tribunal to which the appeal is now returned for that Tribunal to remake the decision following a hearing.

Notice of Decision

The decision of the First-tier Tribunal 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*.

LISTING DIRECTIONS: return to First-tier Tribunal; fix hearing centre by reference to appellant's home address; 2 hours; first available date; not Judge SJ Reed; Amharic interpreter; Field House to contact Ms Smith's clerk to arrange hearing (telephone details supplied separately)

Signed

Date 28 January 2022

Upper Tribunal Judge Lane

Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008

Unless and until a Tribunal or court directs otherwise, the appellants are granted anonymity. No report of these proceedings shall directly or indirectly identify them or any member of their family. This direction applies both to the appellants and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.