



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2021-001362
First-tier Tribunal No:
PA/51209/2020
IA/02382/2020

THE IMMIGRATION ACTS

Decision & Reasons Issued:
On the 11 April 2023

Before

UPPER TRIBUNAL JUDGE FRANCES
DEPUTY UPPER TRIBUNAL JUDGE MONSON

Between

S J A
(ANONYMITY ORDER MADE)

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr J Frost, instructed by Migrant Legal Project
For the Respondent: Mr E Tufan, Senior Home Office Presenting Officer

Heard at Field House on 17 February 2023

Order Regarding Anonymity

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.

DECISION AND REASONS

1. The appellant is a citizen of Ethiopia born in 1982. He appeals against the decision of First-tier Tribunal Judge A M Black dated 8 November 2021 dismissing his appeal against the refusal of his protection claim on asylum, humanitarian protection and human rights grounds.

2. Permission to appeal was granted by First-tier Tribunal Judge Dixon on 13 December 2021 on the grounds there were favourable findings by the previous judge (Judge Ford), including that the appellant had been detained. This required careful handling in view of the new evidence presented which included a country expert report. Judge Black found the appellant was a low level supporter of the OLF. The grounds raised arguable errors of law.
3. Mr Frost relied on the detailed and lengthy grounds and submitted that it was accepted the appellant had a political profile and that he had been detained in Ethiopia. The appellant succeeded on a proper application of the country guidance before the judge: MB (OLF and MTA - risk) Ethiopia CG [2007] UKAIT 00030 which was approved and clarified in Robo (OLF - MB confirmed) Ethiopia CG [2022] UKUT 00001 (IAC).
4. Mr Tufan handed up a copy of Robo and relied on headnote (2) and (4):
 - “(2) OLF members and supporters and those specifically perceived by the authorities to be such members and supporter will generally be at real risk if they have previously been arrested or detained on suspicion of OLF involvement.
 - (3) Those who have a significant history, known to the authorities, of OLF membership or support, or are perceived by the authorities to have such a significant history will in general be at real risk of persecution by the authorities.
 - (4) ‘Significant’ should not be read as denoting a very high level of involvement or support. Rather, it relates to suspicion being established that a person is perceived by the authorities as possessing an anti-government agenda. This is a fact sensitive assessment.”
5. Mr Tufan conceded Judge Black had made material errors of law and her decision should be set aside. The appeal could be re-made and allowed following the latest country guidance: Robo which stated MB still accurately reflected the situation facing members and supporters of the OLF if returned to Ethiopia.
6. We agree. Judge Ford found that the appellant was suspected of OLF involvement and was arrested and detained in Ethiopia. Judge Black found that the appellant’s identity as a low profile political activist and supporter of OLF and Oromo youth movement would be known on return to Ethiopia.
7. We find Judge Black materially erred in law for the reasons given in the grounds of appeal, in particular Judge Black misapplied MB. On the facts found by the First-tier Tribunal and on a proper application of the country guidance in Robo, the appellant has shown a real risk or reasonable degree of likelihood of persecution on return to Ethiopia.
8. We set aside the decision of 8 November 2021 and remake it allowing the appellant’s appeal on asylum and human rights grounds.

Notice of Decision

Appeal allowed

J Frances

Judge of the Upper Tribunal
Immigration and Asylum Chamber

21 February 2023