



**Upper Tribunal
(Immigration and Asylum Chamber)
004884**

**Appeal Number: UI-2022-
PA/11517/2019**

THE IMMIGRATION ACTS

**Heard at Field House IAC
By way of a hybrid hearing
On the 25 January 2023**

**Decision & Reasons
Promulgated
On the 16 March 2023**

Before

UPPER TRIBUNAL JUDGE OWENS

Between

**MA
(ANONYMITY ORDER MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation

For the Appellant: Mr Burrett, Counsel instructed by Fisher Jones
Greenwood LLP

For the Respondent: Mr Clarke, Senior Home Office Presenting Officer

**DECISION MADE PURSUANT TO RULE 40(3) OF THE
TRIBUNAL PROCEDURE (UPPER TRIBUNAL) RULES 2008**

1. The appellant appeals with permission against the decision of First-tier Tribunal Judge Buckwell sent on 3 May 2022 dismissing his appeal against the decision dated 11 November 2019 to refuse his protection and human rights claim.
2. The hearing was held at Field House although Mr Burrett attended remotely by Microsoft Teams. The parties confirmed that they could see and hear each other and there were no problems with connectivity. Neither party complained of any unfairness.
3. The judge found that the appellant does not have a well-founded fear of persecution on account of his perceived support for the Oromo Liberation Front and dismissed the appeal.
4. At the outset of the error of law hearing, Mr Clarke for the respondent conceded that the judge had made several material errors of law in line with the grant of permission.
5. I am in agreement. In this appeal the judge misapplied the law by failing to correctly apply *Roba* (OLF- MB confirmed) Ethiopia CG [2022] UKUT 00001 (IAC). Firstly, it was irrational for the judge to conclude at [50] that it was “absurd” that a child of 12 could have a political profile. The respondent accepted that the appellant had participated in anti-government demonstrations in Ethiopia and the judge’s view in this respect was contrary to the background evidence and expert report. Secondly, the judge misdirected himself at [53] when he found that the appellant was not a “leader of the Oromo community in this country”. This is manifestly not the test in AAR. The judge failed to look at the appellant’s profile as a whole including his previous attendance at demonstrations and current political activities to determine whether he would be considered as having a “significant history”. The judge failed to address the guidance in *Roba* at headnotes (3) and (4) that this might not denote a very high level of involvement. In doing so, the judge also failed to assess adequately the expert evidence on that point. Further at [54] the judge’s approach the expert evidence is inadequate. The judge fails to give any or alternatively adequate reasons for rejecting the expert evidence which was specific to the appellant.
6. Mr Clarke also conceded that the decision is also flawed because although submissions were made on this point at [38] there was no evaluation of prospective risk. The judge failed to consider whether the appellant would continue to be politically active if returned to Ethiopia and there is no consideration of *HJ(Iran)* [2010] UKSC 31 in the decision at all.
7. I am satisfied that the respondent’s concession is appropriate. The decision involved the making of a material error of law and should be set aside in its entirety with no findings preserved.

8. Rule 40 (3) provides that the Upper Tribunal must provide written reasons for its decision with a decision notice unless the parties have consented to the Upper Tribunal not giving written reasons. I am satisfied that the parties have given such consent at the hearing, but I have summarised my reasons for the benefit of the parties.

Notice of Decision

9. The decision of the First-tier Tribunal involved the making of an error of law.
10. The decision of the First-tier Tribunal is set aside in its entirety with no findings preserved.
11. The decision is remitted to the First-tier Tribunal for a de novo hearing before a judge other than First-tier Tribunal Judge Buckwell.

Anonymity Direction

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.

Signed

Date: 27 January 2023

R J Owens
Upper Tribunal Judge Owens