



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2023-002571
First-tier Tribunal No: PA/55900/2021

THE IMMIGRATION ACTS

Decision & Reasons Issued:
On 2nd of November 2023

Before:

UPPER TRIBUNAL JUDGE GILL

Between

The Secretary of State for the Home Department

Appellant

And

M T S

(ANONYMITY ORDER MADE)

Respondent

Representation:

For the Appellant: Mr C Avery.
For the Respondent: Mr T Hodson

Heard at Field House on 20 October 2023

Anonymity

I make an order under r.14(1) of the Tribunal Procedure (Upper Tribunal) Rules 2008 prohibiting the disclosure or publication of any matter likely to lead members of the public to identify the original appellant. No report of these proceedings shall directly or indirectly identify him. This direction applies to both the appellant and to the respondent and all other persons. Failure to comply with this direction could lead to contempt of court proceedings.

I make this order because this is a protection claim.

The parties at liberty to apply to discharge this order, with reasons.

DECISION AND REASONS

1. The Secretary of State has been granted permission to appeal the decision of Judge of the First-tier Tribunal Cockburn who, in a decision promulgated on 15 May 2023 following a hearing on 20 March 2023, allowed the appeal of M T S, a 44-year old national of Eritrea (hereafter the "claimant"), on asylum grounds and human rights grounds (Articles 3 and 8 of the ECHR) against a decision of the respondent of 25 November 2021 to refuse his further submissions of 20 May 2020 on asylum grounds, humanitarian protection grounds and human rights grounds.
2. At the hearing, Mr Avery informed me that he did not wish to pursue the Secretary of State's grounds. In my view, Mr Avery's decision was entirely realistic.

3. Mr Avery accepted that it followed that there was no material error of law in the judge's decision and that the Secretary of State's appeal therefore stood to be dismissed.
4. I am satisfied that there is no material error of law in the judge's decision.
5. The Secretary of State's appeal is therefore dismissed.

Decision

The making of the decision of the First-tier Tribunal did not involve the making of any error of law sufficient to require it to be set aside.

Accordingly, the decision of the First-tier Tribunal to allow the appeal of M T S appeal against the Secretary of State's decision on asylum grounds and human rights grounds (Articles 3 and 8) stands.

The Secretary of State's appeal to the Upper Tribunal is dismissed.

Signed
Upper Tribunal Judge Gill

Date: 23 October 2023

NOTIFICATION OF APPEAL RIGHTS

1. A person seeking permission to appeal against this decision must make a written application to the Upper Tribunal. Any such application must be **received** by the Upper Tribunal within the **appropriate period** after this decision was **sent** to the person making the application. The appropriate period varies, as follows, according to the location of the individual and the way in which the Upper Tribunal's decision was sent:
2. Where the person who appealed to the First-tier Tribunal is **in the United Kingdom** at the time that the application for permission to appeal is made, and is not in detention under the Immigration Acts, the appropriate period is **12 working days (10 working days, if the notice of decision is sent electronically)**.
3. Where the person making the application is in detention under the Immigration Acts, **the appropriate period is 7 working days (5 working days, if the notice of decision is sent electronically)**.
4. Where the person who appealed to the First-tier Tribunal is **outside the United Kingdom** at the time that the application for permission to appeal is made, the appropriate period is **38 days (10 working days, if the notice of decision is sent electronically)**.
5. A "working day" means any day except a Saturday or a Sunday, Christmas Day, Good Friday or a bank holiday.
6. The date when the decision is "sent" is that appearing on the covering letter or covering email