



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

Appeal Number: PA/11517/2019

**THE IMMIGRATION ACTS**

**Heard at FIELD HOUSE  
On 21 December 2021**

**Decision & Reasons Promulgated  
On 25 January 2022**

**Before**

**DEPUTY JUDGE OF THE UPPER TRIBUNAL  
MS GA BLACK**

**Between**

**MR MOHAMED ABDALLA  
(ANONYMITY DIRECTION NOT MADE)**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr A Burrett (Counsel)

For the Respondent: Mr D Clarke (Senior Home Office Presenting Officer)

**DECISION AND REASONS - ERROR OF LAW**

1. This is an appeal against a decision by the First-tier Tribunal (Judge Steadman) (“FTT”) who in a decision and reasons promulgated on 14 January 2019 dismissed the appellant’s appeal on protection and human rights grounds.

Background

2. The appellant, whose date of birth is 2 November 2002, is a citizen of Ethiopia and of Oromo ethnicity. He made a protection claim on political grounds and a human rights claim. He relied on Article 8 under paragraph 276ADE that there were insurmountable obstacles on return to Ethiopia as an unaccompanied minor with a political history.

#### Grounds of appeal

3. In short the grounds of appeal argued that the FTT failed to consider or engage with the expert evidence of Mr J Birchall (**MK** (duty to give reasons) Pakistan 2013 UKUT 641 (IAC) & **SB** (Sri Lanka) v SSHD [2019] EWCA Civ 160). The FTT found that the appellant had been politically involved in the past. The FTT focussed solely on the material in the CPIN to the exclusion of other material.
4. Secondly, the FTT failed to consider the Article 8 claim pursued under paragraph 276ADE and / or failed to make findings as to the appellant's contact with his family, his vulnerability and as an unaccompanied minor.

#### Permission to appeal

5. Permission to appeal was granted by Lady Justice Andrews on both grounds in Judicial review proceedings dated 9 March 2021.
6. Thereafter on 18 October 2021 the Vice President of the Upper Tribunal granted permission to appeal in light of the comments of Andrews LJ and gave a reminder of the role of the Upper Tribunal under section 12 2007 Act.

#### Error of law hearing

7. Mr Clarke produced a Rule 24 response dated 17 November 2021, (which had not made its way to the file), in which it was conceded that the FTT decision contained an error of law in so far as there was a failure to consider the expert evidence.
8. It was not necessary to hear from Mr Burrett in the circumstances save that he confirmed that the expert evidence was material to the protection and human rights claims.

#### Decision and reasons

9. I was entirely satisfied that the decision involved a material error of law. The FTT failed to refer to and/or engage with the expert report of Mr Birchall which dealt with material issues in the appeal. It was incumbent on the FTT to consider all of the evidence in the round. The FTT not only failed to consider the expert report but focussed only on the background material in the CPIN. The FTT ought to have considered the expert evidence and assessed the weight to be attached to it and provided a reasoned explanation as to why it accepted the evidence or rejected the evidence. The FTT adopted a piecemeal approach to the evidence in the

appeal rather than a holistic approach. This amounted to a material error of law.

10. Further, it is apparent that the FTT omitted to consider the issues raised under Article 8 with reference to paragraph 276ADE and risk on return. There was no proper consideration of the relevant evidence that the appellant was an unaccompanied minor, had a political background or other pertinent issues such as contact with his family in order to reach a conclusion as to risk on return as an unaccompanied minor and his ability to reunite with his family.
11. In terms of disposal I agreed with Mr Burrett and Mr Clarke that remittal to the FTT was the appropriate course of action.

### **Notice of Decision**

The appeal is allowed. The decision involved a material error in law and is set aside. The matter is to be remitted for hearing de novo to the First-tier Tribunal at Hatton Cross (excluding FTJ Steadman).

No anonymity direction is made.

Signed

Date 11 January 2022

GA Black  
Deputy Judge of the Upper Tribunal

### **TO THE RESPONDENT FEE AWARD**

No fee award is made

Signed

Date 11 January 2022

GA BLACK  
Deputy Judge of the Upper Tribunal