



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: PA/12724/2017

THE IMMIGRATION ACTS

Heard at Manchester Civil Justice Centre
On 11th September 2018

Decision & Reasons Promulgated
On 25 September 2018

Before

UPPER TRIBUNAL JUDGE COKER

Between

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

And

AHMED [M]

Respondent

Representation:

For the Appellant: Mr A Mc Veety, Senior Home Office Presenting Officer
For the Respondent: Mr K Wood, Counsel, instructed by IAS (Manchester)

DETERMINATION AND REASONS

1. Mr [M], a non-Arab Darfuri, sought asylum. His asylum claim was refused by the respondent for reasons set out in a decision dated 17th November 2017. He appealed that decision and in a determination promulgated on 18th January 2018 following a hearing on 17th January 2018, First-tier Tribunal Judge Lloyd allowed his appeal.
2. The First-tier Tribunal judge found Mr [M]'s account of his arrest and detention credible and consistent with the "background" information before him. The judge considered the findings in the context of AA (*Non-Arab Darfuris – relocation*) Sudan CG [2009] UKAIT 00056 and MM (*Darfuris*) Sudan CG [2015] UKUT 10 (IAC). The judge refers to the COI brought to his attention by the presenting officer and states

The new COI relies on two reports to depart from country guidance. These were not provided at the hearing. I find the [SSHD] has not provided me with cogent evidence

in support of the position taken in the Refusal letter and the decision to depart from country guidance cases. The evidence produced by the appellant's representative in the appeal bundle at pages 15-112, persuades me that there is no evidence to depart from country guidance. For example the Foreign and Commonwealth Office confirms in a report dated 19 July 2017 on pages 96-97, that there was no improvement in human rights in Sudan during 2016.

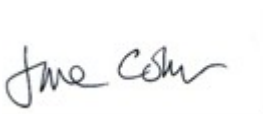
3. The SSHD sought and was granted permission on the grounds that the judge had failed properly to consider the background material relied upon by the respondent in the August 2017 CPIN that the position of non-Arab Darfuris has improved sufficiently to justify a departure from the CG decisions of AA and MM.
4. The SSHD had not, as acknowledged by Mr McVeety, sought to appeal the findings of the First-tier Tribunal judge that Mr [M] had been arrested, interrogated about his work, detained for about a month, accused of being in opposition to the Government, released on conditions which included reporting to a police station every two weeks with information he had failed to provide during his detention and that he would be killed if he did not comply. His fingerprints and photograph were taken.
5. Although the reasons given by the First-tier Tribunal judge for not departing from the CG cases may be considered lacking in depth and detail, that evidence only seeks to depart from the guidance that those who are not perceived to be in opposition to the government were at risk. In this case, there are unchallenged findings that Mr Mohammed had been arrested and detained for perceived opposition to the government, despite his continued denials of such activity. He did not therefore fall within the category of those individuals who may no longer be at risk if the evidence of the CPIN is considered to be such as to justify departure from the CG cases. Mr [M] remains an individual who, as a non-Arab Darfuri is perceived to be in opposition to the Sudanese government.
6. There is no material error of law by the First-tier Tribunal judge. I do not set aside the decision. The decision of the First-tier Tribunal stands.

Conclusions:

The making of the decision of the First-tier Tribunal did not involve the making of an error on a point of law.

I do not set aside the decision; the decision of the First-tier Tribunal stands. The successful appeal of Mr [M] against the refusal of his asylum claim stands.

Date 14th September 2018



Upper Tribunal Judge Coker