



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

Appeal Number: PA/03260/2019

THE IMMIGRATION ACTS

**Heard at Manchester Civil Justice
Centre
Given extempore on 6th August
2019**

**Decision & Reasons Promulgated
On 16th August 2019**

Before

Upper Tribunal Judge Chalkley

Between

**M E
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr H Sadiq, a Solicitor and Director of the firm Adam Solicitors Ltd

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

REASONS FOR FINDING AN ERROR OF LAW

1. The appellant was born on 30th May, 1978 and is a citizen of Sudan. On behalf of the respondent Mr McVeety conceded that there was a material error of law in the determination of First-tier Tribunal Judge McAll, in that it is not clear from the determination whether the judge has considered and/or applied country guidance case law in relation to the risk on return based, on the appellant's ethnicity alone as a member of the Berti tribe.

2. Both representatives agreed that this was a material error of law. They asked that the matter be remitted to the First Tier Tribunal. I am satisfied that there is an error of law in the determination of Judge McAll.
3. The only challenge to the determination today was in respect of the issue of the risk on return, given the appellant's ethnicity and being a non-Arab Darfuri. Judge McAll had in his determination already found there to be no risk to the appellant's daughters of FGM since he found that part plainly not credible. That finding shall stand. I set aside the decision of the First-tier Tribunal.
4. The sole issue to be decided by the First-tier Tribunal will be whether as a member of the Berti tribe and being a non-Arab Darfuri she will be at risk of persecution on return to Sudan.
5. The appeal is to be heard a First Tier Tribunal judge other than First-tier Tribunal Judge McAll and two hours should be allowed for the hearing of the appeal.
6. An Arabic interpreter is required.

Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008

Unless and until a Tribunal or court directs otherwise, the appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify her or any member of her family. This direction applies both to the appellant and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.

Richard Chalkley
Upper Tribunal Judge Chalkley
13th August 2019