

APPEAL NO HX01938-2002  
GA (Umma-Reconciliation with  
Government) Sudan CG [2002]  
UKIAT 04605

**IMMIGRATION APPEAL TRIBUNAL**

Date Determination notified:

.3 October 2002

Heard at Field House by video link with Glasgow  
On 30 August 2002  
Dictated 5 September 2002

**Before:**

**MR H J E LATTER (Chairman)**  
**MR F T JAMIESON**  
**MR A A LLOYD, JP**

**Between**

**Gazi Ahmed Abdallah**

**APPELLANT**

**and**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

**RESPONDENT**

**Appearances:**

For the appellant:	Mr D Govier of Counsel instructed by Skene Edwards solicitors
For the respondent:	Mr B Dryden, Home Office Presenting Officer

**DETERMINATION AND REASONS**

1. This is an appeal by Gazi Ahmed Abdallah, a citizen of Sudan, against the determination of an Adjudicator (Professor Rebecca M M Wallace) who dismissed his appeal against the respondent's decision made on 24 July 2001 giving directions for his removal following the refusal of his claim for asylum.
2. The appellant has based his claim on a fear of persecution from the Sudanese authorities because of his activities on behalf of the UMMA Party. His family still lives in Sudan. His father is a nurse in a medical centre and an employee of the Ministry of Health. The appellant

attended primary and intermediate school leaving in 1995. From January 1996 to August 1997 he was a government employee. He says that he has been a member of the UMMA Party since 10 June 1995 and his primary activity within the party was to distribute leaflets. His problems started in May 1996 when he was approached by three men in civilian clothes and taken from his place of work by car to an unknown destination. He was blindfolded and taken to a dark room where he was left for an hour. He was then taken to an office and questioned. He was accused of being against the regime and of distributing leaflets. He was told he had been put under surveillance. He was punched, kicked and beaten. He was detained until 1 June 1996 and then released.

3. He returned to work and to live with his parents. He told his superiors and work colleagues that he had taken a break and apparently this was accepted. The appellant then resumed his political activities about a month later and managed to avoid the authorities until September 1997 when he was again apprehended by two men in civilian clothes. He was detained with five other people in a room without sanitation and with inadequate food. He says that he was interrogated and beaten. He escaped detention by bribing an attendant who brought him food. On 22 September 1997 the attendant took the appellant to the perimeter gate, opened it and from there the appellant managed to get to an inhabited area where he asked a stranger for directions. He got to Khartoum and found a friend who said he would help him get out of Sudan.
4. The appellant's friend and two of his associates drove him to Port Sudan from where he sailed on 30 September 1997. He managed to leave the ship somewhere on the Scottish coast. He presented himself to the Refugee Council on 22 October 1997 and then claimed asylum. The Secretary of State's reasons for refusing his claim are set out in a letter dated 24 July 2001. The appellant's appeal against this decision was heard by the Adjudicator on 3 April 2002. She heard oral evidence from the appellant. He said that his father had also been involved in the UMMA Party. He confirmed his periods of detention as having started on 15 May 1996 and 5 September 1996. The bribe to the prison guard had been paid by friends from party funds. When asked about his lack of involvement with the UMMA Party in the United Kingdom, the appellant said that he did not know anyone in the party and the party was located in London whereas he lived in Edinburgh.
5. The Adjudicator's assessment of the evidence is set out in paragraph 9 of her determination. The Adjudicator clearly had considerable doubts about the appellant's evidence. She noted his claim that his father was a member of the party yet his father had continued to work as a nurse in a government run medical centre. He had not had any contact with the UMMA party in the United Kingdom. The Adjudicator noted that the medical report described the scars on the appellant's lower legs as consistent with the injuries described by him and his detention was

consistent with detention in ghost houses in Sudan as referred to in the CIPU report at paragraph 5.63.

6. The Adjudicator said that even accepting the appellant's account of the two instances of alleged ill treatment, the real issue was whether the appellant would be at risk of persecution if returned to Sudan. She accepted that leaders and high ranking members of opposition political parties might encounter problems with the security forces on return but this would not apply to members of the UMMA party as the leader and leading members had returned recently (CIPU paragraph 5.51). A number of conciliatory gestures had been made by the authorities to the UMMA Party and in November 1999 a peace accord between the Government and the UMMA Party was signed. In March 2000 the UMMA Party left the National Democratic Alliance which comprised opposition political groups and rebel groups. The appellant was not a key political figure and if returned as a member of the UMMA Party he would be unlikely to encounter problems with the security forces. Because of his low-key political activities he did not fall into a vulnerable category. On the totality of the evidence the Adjudicator did not believe that there was a real likelihood that the appellant would be at risk of persecution or a breach of his human rights such as to engage the United Kingdom's obligations if he returned to Sudan.
7. Mr Govier submitted that the Adjudicator had made no specific finding on the general credibility of the account given by the appellant. There was evidence before her which she had not specifically accepted or rejected. She was wrong to assume that just because party leaders were not arrested that ordinary members would not be at risk. He referred to a report entitled "Report on the Fact Finding Mission to Cairo (Egypt and Geneva) Switzerland" which dealt with the human rights situation in Sudan. This is a report prepared by the Danish Immigration Service carried out in January-February 2000 and March 2000. Mr Govier referred in particular to page 20, B1.1 and to a report that Sudanese nationals who have been abroad for over one year would be detained on return and transferred to the Security Service Headquarters in Khartoum for questioning. Anyone suspected by the security police on the basis of such questioning of having engaged in political activities for the opposition risked ill treatment including torture.
8. Mr Dryden submitted that this report added very little to the information which was before the Adjudicator. The appellant had not been a prominent activist on behalf of UMMA. His role was limited to distributing leaflets. In his submission the Adjudicator's findings and conclusions were correct.
9. At the hearing before the Tribunal Mr Govier quite rightly did not pursue a number of the grounds in his grounds of appeal. Grounds 1 and 3 raise issues of credibility which were for the Adjudicator. Grounds 4 and 5 argue there has been a change of circumstances and there was therefore a burden of proof on the respondent to show that it was safe

for the appellant to return. This assertion has no substance. The change of circumstances if anything has been for the better. The change relied on is the return of the leader of the UMMA Party to Sudan. It is argued that this is no indication as to the safety of the return of ordinary party members. This is an issue of fact and in the view of the Tribunal does not place a burden of proof on the respondent to show that it is safe for the appellant to return to Sudan as ground 5 appears to argue.

10. The two arguable points which were pursued by Mr Govier were that the Adjudicator had failed to make an adequate assessment of the credibility of the account given by the appellant and had failed properly to assess the risk on return. He relied on the report prepared by the Danish Immigration Service and on the fact that ordinary rank and file members of opposition parties who are engaged in political activities abroad would be questioned about their situation and activities and they risked lengthy detention. More prominent members of the opposition do not face lengthy detention as the authorities are more concerned about the reaction in the outside world when detainees are known abroad.
11. So far as the point relating to credibility is concerned, in the view of the Tribunal this has no substance. The Adjudicator clearly had her doubts about some aspects of the applicant's account but proceeded to assess his claim on the basis that his account might be true. In the view of the Tribunal the Adjudicator has followed the guidance of the Court of Appeal in Karanakaran [2000] Imm AR271. She was not prepared to discount this evidence and has therefore proceeded on the basis that it might be true.
12. Her conclusion was that the appellant would not longer be at risk. This is because his fear is based on his membership of the UMMA Party. The background evidence shows that there has been a degree at least of reconciliation between the governing authorities and the UMMA Party. A peace accord has been signed in March 2000 and the leader of the party has returned. It is argued on behalf of the appellant that he as an ordinary member would be at risk in a way that the leader of the party would not be. Reliance is placed on the report cited above. However the passage cited is the view of one particular source and in any event those at risk of detention are said to be people who have engaged in political activities abroad. On his own account the appellant has not done so. It is members of the SPLM/A who are highlighted as being at particular risk: see page 21 B1.2. In the report at page 22 a source at the Royal Netherlands Embassy in Cairo said that the Sudanese authorities were not interested in ordinary members of Sudanese opposition parties. It was only prominent active members of such parties who might risk the attention of the authorities on re-entering Sudan. There is also a reference in this report to the UMMA Party as having representatives living in Khartoum: page 28. All the party's political leaders are now at liberty having been released in

December 1999. It is recorded that none of those released enjoy any political rights and so they cannot publicly engage in normal kinds of political activity. However, that would not be an undue constraint on the appellant as his activities have been very low level and non-existent since he left Sudan.

13. In our view the Adjudicator's findings and conclusions were properly open to her on the evidence. The additional evidence put before the Tribunal does not satisfy us that it is even arguable that her findings are wrong. Having reviewed the evidence for ourselves we agree with her conclusions that the appellant fails to show there is any reasonable degree of likelihood that he would be at risk of persecution or a breach of his rights under Article 3 on return to Sudan.
14. In these circumstances, this appeal is dismissed.

**H J E Latter**  
**Vice President**