



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

Appeal Number: AA/09035/2009

THE IMMIGRATION ACTS

**Determined On the Papers at Manchester
On 29 January 2015**

**Decision & Reasons
Promulgated
On 4 February 2015**

Before

UPPER TRIBUNAL JUDGE CLIVE LANE

Between

**NAM
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: No Representation

For the Respondent: No Representation

DECISION AND REASONS

1. The appellant, NAM, claims to be a citizen of Somalia. This matter last came before me on 15 May 2014 when I made the following directions:
 1. For the avoidance of doubt it is recorded that the respondent has withdrawn the decision to remove the appellant which is dated 29 July 2009.
 2. Having regard to *SM (Withdrawal of appeal decision; effect) Pakistan* [2014] UKUT 64 (IAC) it remains for the Upper Tribunal to decide,

following withdrawal of the respondent's decision, to proceed to allow or dismiss the appeal (see *SM*, head note [3]) in light of all relevant matters (including those set out at head note [4] of *SM*).

3. The parties have permission to file with the Upper Tribunal and to serve upon each other no later than 4pm on 30 June 2014 written submissions (annexing thereto such items of documentary evidence as may be appropriate) concerning (1) and (2) above. The Tribunal will then decide how to proceed, and should give its decision in writing and shall, if necessary, give further directions should a substantive hearing be required.
2. I have received no written submissions from either party following the making of that direction. Having regard to all the circumstances in this appeal and to the decision of the Upper Tribunal in *SM*, I dismiss the appellant's appeal against the Secretary of State's decision to remove her. In doing so, I refer to the decision of Designated Judge McCarthy dated 25 January 2010 by which he set aside the decision of the First-tier Tribunal dated 25 September 2009 (which had allowed the appellant's appeal against the immigration decision.) The appellant is currently in prison following the unfortunate death of her daughter; she has never been produced before me at any hearing. In the light of the considerable lapse of time since the making of the decision to remove the appellant and the intervening events and having regard to the withdrawal of the immigration decision by the respondent, I find that the only appropriate course of action is to dismiss this appeal. It will be for the Secretary of State to consider her position. If she issues a further immigration decision it is likely that the appellant will, if she is so advised, be able to appeal to the First-tier Tribunal. However, I leave those matters to the parties. Finally, I record that at no point during the currency of the present proceedings before either the First-tier Tribunal or the Upper Tribunal has any evidence been produced which would indicate that the appellant is of a nationality other than Somali.

DECISION

3. The appeal of NAM is dismissed.

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 him or any member of their 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.

Signed

Date 2 February 2015

Upper Tribunal Judge Clive Lane