



IAC-AH-KRL-V1

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

Appeal Number: DA/01261/2014

**THE IMMIGRATION ACTS**

**Heard at Bradford  
On 15 June 2015**

**Decision & Reasons Promulgated  
On 15 July 2015**

**Before**

**UPPER TRIBUNAL JUDGE CLIVE LANE**

**Between**

**EGAL SAEED MOHAMED EGAL  
(ANONYMITY DIRECTION NOT MADE)**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: Miss S Khan, instructed by Fusco Browne, Sheffield

For the Respondent: Mrs R Pettersen, a Senior Home Office Presenting Officer

**DECISION AND REASONS**

1. The appellant, Egal Saeed Mohamed Egal, was born on 30 April 1991 and is a male citizen of Somalia. The appellant arrived in the United Kingdom in 2004 when he was aged 12 years. He claimed asylum but his application was refused by the respondent. However, in August 2010, he was granted indefinite leave to remain in the United Kingdom. On 3 October 2011, the appellant was convicted of three counts of supplying a class A (heroin) controlled drug and one count of offering to supply a class A (cocaine) controlled drug and was sentenced to four years' detention in a Young Offenders' Institute. The sentence was subsequently reduced to

two years and eight months. He was informed of his liability for deportation on 26 November 2012 and a further application for asylum made by the appellant on 29 April 2013 was refused on 20 February 2014. The deportation order was made in respect of the appellant on 16 June 2014. The appellant appealed to the First-tier Tribunal against the decision to make a deportation order against him but his appeal was dismissed (Judge Grimshaw) by the First-tier Tribunal in a decision promulgated 1 October 2014. The appellant now appeals, with permission, to the Upper Tribunal.

2. The basis upon which the appellant appeals to the Upper Tribunal was somewhat problematic. His grounds of appeal deal, in the main part, with the appellant's circumstances in the United Kingdom insofar as they may engage Article 8, ECHR. The grant of appeal (Judge P J G White) was concerned primarily with the possibility that the First-tier Tribunal had determined the appeal by reference to an incorrect version of the Immigration Rules. That point was not argued before me by Miss Khan of Counsel who, instead, submitted that the First-tier Tribunal had failed to engage with the likely circumstances which the appellant would face upon return to Somalia insofar as those circumstances might render his removal by deportation disproportionate under Article 8 ECHR. I agree with Mrs Pettersen that the grounds advanced by Miss Khan at the initial hearing do differ from those detailed in the grounds of appeal. However, I have considered the submissions made by Miss Khan. I am grateful also to Mrs Pettersen for responding to them at the initial hearing.
3. Miss Khan accepted that the appellant could not succeed under the Immigration Rules. His appeal is exclusively, therefore, under Article 8, ECHR. Judge Grimshaw dealt with Article 8 at [28] *et seq.* She properly had regard to Section 117 of the Nationality, Immigration and Asylum Act 2002, in particular, Section 117C [29-30]. She noted that the appellant could not succeed under paragraph 399A of the Immigration Rules because he had not resided in the United Kingdom for the sufficient period of time. At [32], she wrote:

"The appellant asserts that he no longer has any ties to Somalia. However against that I note that the appellant is able to speak the language of his country in addition to English. He has spent his formative years in his country of origin. I cannot find that he has proved that he has lost his awareness of the culture, traditions and societal norms of Somalia. The burden of proof is on the appellant to show the obstacles to return. Other than his understandable reluctance to return to a country he has not visited or lived in for a decade I have not been directed to any evidence to justify a finding that it would be unreasonable for him to return to life in Somalia. I bear in mind that the appellant is a single young man in good health. Arguably as a result of his knowledge, skills and experience he has acquired during his time in the United Kingdom he is in a favourable position to seek employment and find his place in society."
4. Miss Khan submitted that the judge's analysis at [32] was inadequate. While she acknowledged that the judge's findings were not inconsistent

with the country guidance of *MOJ (Return to Mogadishu) Somalia CG* [2014] UKUT 00442 (which was promulgated several days after Judge Grimshaw promulgated her own decision) Miss Khan submitted that the judge had not dealt adequately with circumstances which the appellant would face upon return to Somalia. However, Miss Khan in her submissions on the grounds of appeal did not challenge the judge's findings at [27]:

“Having considered the country background information and the submissions of the respondent set out in the refusal letter I am satisfied that a return to Mogadishu is not incompatible with the appellant's rights under Article 2 and 3 [of the ECHR]. Furthermore, I am satisfied that the improvement in the security situation in Mogadishu is sufficiently durable for me to conclude that there no longer remains a general risk of Article 15(c) harm to the appellant if he were returned to the capital. Indeed, Ms Campbell [Counsel for the appellant before the First-tier Tribunal] has not sought either in a skeleton argument or her closing submissions to persuade me otherwise.”

5. The judge's unchallenged finding as regards Article 15(c) and Article 3, ECHR should be read in the light of country guidance of *AMM (conflict; humanitarian crisis; returnees; FGM) Somalia CG* [2011] UKUT 00445 (IAC) which has been relevant country guidance for Somalia since 2011. Whilst it is true that the judge did not refer in terms to *AMM* or, indeed, to *Maslov v Austria (2008) 1638/03* I am satisfied that what the judge says regarding Article 8, ECHR at [32] is consistent with both domestic and European jurisprudence. Although the appellant is young and has spent much of his life in the United Kingdom he had only been in this country for seven years lawfully before committing the index offence. There was nothing in the judge's assessment which is inconsistent with *Maslov*. The judge's findings as regards the ability of this particular appellant to reintegrate into Somali society are, in my opinion, entirely adequate. In addition, the judge has considered the strength of family ties which the appellant has within the United Kingdom, especially with his father [33]. She reached a conclusion which was plainly available to her on the evidence and in support of that conclusion with cogent and clear reasoning. I see no reason to disturb her analysis either for the reasons given in the grounds of appeal or by Miss Khan in her oral submissions. As I have noted above, Miss Khan did not rely upon the reasons given by Judge White for granting permission.

### **Notice of Decision**

6. This appeal is dismissed.
7. No anonymity direction is made.

Signed

Date 10 July 2015

Upper Tribunal Judge Clive Lane

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

I have dismissed the appeal and therefore there can be no fee award.

Signed

Date 10 July 2015

Upper Tribunal Judge Clive Lane