



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

Appeal Number: AA/05721/2015

THE IMMIGRATION ACTS

**Heard at Glasgow
On 11 January 2016**

**Decision & Reasons Promulgated
On 15 January 2016**

Before

UPPER TRIBUNAL JUDGE MACLEMAN

Between

M J M

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mrs F Farrell, of P G Farrell, Solicitors

For the Respondent: Mr M Matthews, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. The appellant is a citizen of Somalia, born in 1996.
2. By determination dated 10 October 2015 Judge Boyd dismissed the appellant's appeal to the First-tier Tribunal on asylum and on all other available grounds.
3. On 7 December 2015 a Judge of the First-tier Tribunal granted permission to appeal for the following reasons:

“...

- 3 The grounds which complain that the judge failed to follow correct country guidance since *MOJ and Others Somalia CG [2014] UKUT00442* did not entirely replace *AMM and Others Somalia CG [2011] UKUT00445* and that he failed to indicate which evidence of the expert he did not accept are arguable. Although the judge referred to *AMM* he arguably did not indicate which country guidance he was applying, and arguably failed to indicate the extent to which he did not accept the expert evidence or why.
 - 4 It is unlikely that the judge made a mistake of fact capable of amounting to a material error of law; but since permission is to be granted, all grounds may be argued.”
4. In a Rule 24 response dated 18 December 2015 the SSHD submits as follows:
- “4 ... The judge ... having found [the appellant] not credible and having considered the report ... determined that there was not a risk which engaged the applicability of the conditions in *AMM* ... the judge did not need to go into minutiae about elements of the report and makes appropriate references to the report as to why *AMM* would not have assisted. In any event the grounds do not particularise what in *AMM* the judge failed to consider and why it would have led to a different outcome.
 - 5 While the grounds allege that the report states Al Shabaab is in control of villages around Afgoye, this does not demonstrate that Al Shabaab is in control within Afgoye. Given that there is security in the day and the appellant can travel to Afgoye in the day, the judge was entitled to find that the appellant could return.
- ...”
5. Mrs Farrell’s submissions were along the lines of the grounds and of the grant of permission. She did not contend that the judge had made any material error of fact. She submitted that although *MOJ* said that conditions were improving in Mogadishu, that did not apply to all of Somalia, and there had to be an assessment of the potential risk to the appellant if returning to Afgoye. The judge had found that the appellant would have been entitled to humanitarian protection if his home area was in Mogadishu. There was error in relation to Afgoye such that the determination should be set aside and the appeal allowed on humanitarian protection grounds.
 6. Mr Matthews in his submissions pointed out that nothing was made of those paragraphs of the grounds which alleged that the judge had fallen into factual error. Other parts of the grounds disclosed no points of law and were simply narrative. The judge had considered the country guidance, the background materials and the expert report by Dr Mullen – see paragraphs 19, 20, 21 and 22. The expert report was based on the appellant having given a truthful account, but the judge made unchallenged findings to the contrary. He had given the expert report some weight but had not found it ultimately decisive in the appellant’s favour. The degree of weight to be given to each item of evidence was a

matter essentially for the judge. He was not shown to have gone wrong, and the grounds did not amount to more than disagreement with the outcome. The appellant had failed to show why any analysis of the country guidance should yield an outcome in his favour on the particular facts of his case. It was the expert's view that Afgoye was safe, although not at night, but the judge was not bound to accept his view even to that extent.

7. In reply, Mrs Farrell submitted that expert report was to the effect that Afgoye was not a safe place to which to return. If the appellant could not stay there at night, he could not stay there at all. The expert had cited UNHCR and other reports to similar effect. It also had to be born in mind that if the appellant could not get to Mogadishu, then he could not get anywhere else.
8. I reserved my determination.
9. The grounds and submissions for the appellant do not amount to more than a disagreement with the outcome of the case. They do not yield any analysis as to why, on findings which the judge was entitled to reach, there was anything in country guidance or elsewhere to produce an outcome in his favour. The judge found at paragraph 23 that it was not established that Al Shabaab had sufficient presence in Afgoye to pose any particular threat to the appellant. He was entitled to find that decisive.
10. An anonymity direction was made in the First-tier Tribunal. The matter was not addressed by either party in the Upper Tribunal. There does not appear to be any particular reason for departing from the principle of open justice, but in absence of any submissions this determination has been anonymised and the order will remain in place unless and until a tribunal or court directs otherwise.
11. No error of law has been shown. The determination of the First-tier Tribunal shall stand.



Upper Tribunal Judge Macleman

14 January 2016