



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: AA078952015

THE IMMIGRATION ACTS

Heard at UT (IAC) Stoke
On 9 May 2016
Prepared 9 May 2016

Decision & Reasons Promulgated
On 25 May 2016

Before

DEPUTY UPPER TRIBUNAL JUDGE DAVEY

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

N S A
(ANONYMITY DIRECTION MADE)

Respondent

Representation:

For the Appellant: Mr McVeety, Senior Presenting Officer
For the Respondent: Mr M Trevelyan, Counsel, instructed by Duncan Lewis

DECISION AND REASONS

1. In this decision the Appellant is referred to as the Secretary of State and the Respondent is referred to as the Claimant.

2. The Claimant a national of Somalia, date of birth [] 1988 appealed against the Secretary of State's decision, dated 29 April 2015, to refuse leave to remain following the refusal of an asylum claim.
3. The matter went on appeal and came before First-tier Tribunal Judge D Lloyd (the judge) who on 12 October 2015 allowed the appeal on Refugee Convention grounds. Permission to appeal was sought by the Secretary of State and given by First-tier Tribunal Judge P J G White on 4 November 2015. On 20 November 2015 Duncan Lewis on behalf of the Claimant made a Rule 24 response essentially supporting the judge's decision.
4. Before me, Mr McVeety relies upon the grounds settled in support of the application for permission and in a nutshell essentially argued that the judge had failed to properly address relevant considerations pertinent to the issue of the return of the Claimant to Mogadishu, particularly by reference to the case of MOI and Others (Return to Mogadishu) Somalia CG [2014] UKUT 442 (IAC).
5. In the decision [D] the judge set out relevant facts and there is essentially no challenge to those matters. I note that the Secretary of State was represented and it is clear from the decision that there was some recitation of the Secretary of State's position including reference to MOJ and Others. I conclude that the judge set out the correct legal approach. What is disputed is the extent to which, having extensively recited parts of the decision in MOJ, the judge failed to address those particularly arising under paragraph (ix) of the head note of MOJ, including as it were various bullet pointed issues which needed to be considered, even if not all were directly relevant.
6. The judge [D29] accepted, presumably on the basis of the general credibility of the Claimant, that there was nothing implausible or unlikely about his account and accepted on that basis that there were no remaining family links in Somalia. To do so in the way he did was not the most helpful way to assess the reliability of a story but I infer that the judge's view was reached because he generally found the Claimant a credible witness of fact: if he had he not done so then there would necessarily have

been findings of fact adverse to the credibility or reliability of the claim or the claimed risk on return.

7. The judge went on [D30] to set out up-to-date country information produced by the COIR dated March 2015 which sets out relevant considerations that could be in play *vis-à-vis* the Claimant as a Bravanese, an ethnic minority in Somalia, which might apply.
8. The judge concluded on the basis of the facts that he found and his findings on credibility that although remittances would be available, with the lack of family support structure, the Claimant faced the real risk of becoming an IDP from an ethnic minority in an Al-Shabaab area with all the attendant risks of ill-treatment, lack of protection and internal relocation not being a reasonable option.
9. It is fair to say that the judge's reasoning could have been fuller on the issue of internal relocation but in the light of the findings that were made and the positive findings that were by inference made. I was satisfied the judge, had he given fuller reasons, in all likelihood, would have reached the same decision.
10. Accordingly, in those circumstances whilst it is not by any means the most effectively drafted decision, it gives adequate and sufficient reasons and such error claimed by the Respondent as was made by the judge did not materially affect the outcome of the appeal.

DECISION

11. The Original Tribunal's decision stands.
The appeal of the Secretary of State is dismissed.

ANONYMITY ORDER

An anonymity order was previously made by the judge in September 2015 and I can see no reason why that order should not be continued.

**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 his 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 22 May 2016

Deputy Upper Tribunal Judge Davey