



**Upper Tribunal  
(Immigration and Asylum Chamber)  
HU/11532/2015**

**Appeal Number:**

**THE IMMIGRATION ACTS**

**Heard at Field House**

**Decision and Reasons  
Promulgated**

**On 11 April 2018**

**On 13 April 2018**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE MANUELL**

**Between**

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

Appellant

**and**

**Mr AMIN BASHIR GEELE  
(ANONYMITY DIRECTION NOT MADE)**

Respondent

**Representation:**

For the Appellant: Mr L Tarlow, Home Office Presenting Officer

For the Respondent: Mr R Toal, Counsel (instructed by Birnberg Pierce & Partners,

Solicitors)

**DETERMINATION AND REASONS**

*Introduction*

1. The Appellant (the Secretary of State) appealed with permission granted by Upper Tribunal Judge Allen on 19 January 2018 against the determination of First-tier Tribunal Judge Nightingale who had allowed the appeal of the Appellant on Article 8 ECHR grounds. The Appellant had raised a human rights appeal against the decision to deport him on conducive grounds because of his persistent offending. The decision and reasons was promulgated on 20 June 2017.

2. The Appellant is a national of Somalia, born on 19 June 1988. The Appellant had entered the United Kingdom with his mother and siblings on 9 August 1997, when he was 9 years of age. Although refused asylum, the family were granted ELR and the Appellant was granted ILR on 2 February 2005. The Appellant's numerous convictions from 18 May 2004 onwards are set out by Judge Nightingale at [7] of her decision and need not be repeated here. The Appellant was sectioned under the Mental Health Act on two occasions in 2012. After taking those convictions and the public interest into account, and finding that the Appellant was indeed a persistent offender, the judge found that there were very significant obstacles to the Appellant's reintegration into life in Somalia. The exception in paragraph 399A of the Immigration Rules applied and so the appeal succeeded on Article 8 ECHR grounds.
3. Permission to appeal was refused in the First-tier Tribunal and the permission to appeal granted in the Upper Tribunal was in very general terms. The renewed grounds submit that the judge erred when finding that the Appellant was socially and culturally integrated in the United Kingdom, because his persistent offending showed otherwise. This issue appears to be the main point on which permission to appeal was granted.

### *Submissions*

4. Mr Tarlow for the Appellant relied on the grounds of onwards appeal and grant. The judge's finding that the Appellant was a persistent offender undermined her finding that he was culturally integrated. The determination should be set aside and remade, dismissing the original appeal.
5. Mr Toal for the Respondent submitted that the onwards appeal should be dismissed, as there was no error of law. The judge had engaged fully with the case put forward by the Secretary of State and had directed herself properly. The Appellant's offending had been analysed and the submission that he was not to be regarded as a persistent offender had been rejected. The decision was balanced and cogent reasons for allowing the appeal had been given. The cultural integration found was supported by the evidence identified. The judge had been entitled to take the latest evidence of country conditions into account.
6. There was nothing Mr Tarlow wished to add by way of reply.

### *No error of law finding*

7. In the tribunal's view the grant of permission to appeal was generous, and failed to reflect depth of analysis and reasoning in which the judge had engaged. This is not an onwards appeal where error of law has been shown, but rather extended disagreement. This was a difficult case, with a large volume of evidence and several layers of complexity. It is not the type of appeal where much sympathy for the Appellant will readily be felt and it is almost inevitable that opinions as to the right outcome will vary.
8. As Mr Toal submitted, the judge had engaged with the Respondent's case from the very start and had approached the paragraph 399A of the Immigration Rules and section 117C of the Nationality, Immigration and Asylum Act 2002 issues on the basis that the Appellant was a persistent offender. It should be noted that, despite all his convictions, the Appellant had seldom been sentenced to imprisonment and even then to no more than eight months. Section 117C(6) was therefore inapplicable. The judge rightly pointed out (see [54] of her decision) "If it were to be said that anybody who had committed criminal offences is thereby not culturally and socially integrated, the exception would never apply and would be pointless."
9. The judge went on to make findings as to Appellant's integration, noting that the Appellant had lived in the United Kingdom since the age of 9, had been educated here, spoke with a London accent and that all of his immediate family were settled in the United Kingdom. Those findings were followed by a close examination of the very serious obstacles to reintegration in Somalia, placing among other matters weight on the Appellant's long standing epilepsy which the country background evidence indicated would result in suspicion, fear and stigma: see [57] of the decision. That finding is unassailable. The care with which the judge conducted her review of the evidence can be seen in her conclusion that the Article 3 ECHR threshold had not been met.
10. It is difficult to see what more the judge could have done by way of analysis and reasoning, which was logical and well structured, and extended over several pages. Much of the case put forward on the Appellant's behalf was rejected, and a balanced approach was taken throughout, in which the public interest was constantly considered. The judge then correctly applied the law to those findings.
11. The tribunal finds that the onwards appeal has no substance and that there was no error of law in the decision challenged.

## **DECISION**

The appeal is dismissed

The making of the previous decision did not involve the making of a material error on a point of law. The decision stands unchanged.

**Signed**

**Dated** 11 March 2018

**Deputy Upper Tribunal Judge Manuell**