



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2022-002613

First-tier Tribunal No: RP/00006/2021

THE IMMIGRATION ACTS

Decision & Reasons Issued:
On 10 August 2023

Before

UPPER TRIBUNAL JUDGE FRANCES

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

OMAR MUKHTAR SHEIKH
(AMONYMITY ORDER NOT MADE)

Respondent

Representation:

For the Appellant: Mr E Tufan, Senior Home Office Presenting Officer
For the Respondent: Ms J Fisher, instructed by Shawstone Associates

Heard at Field House on 28 July 2023

DECISION AND REASONS

1. Although is an appeal by the Secretary of State, I shall refer to the parties as they were in the First-tier Tribunal. The appellant is a citizen of Somalia born on 28 October 1994. His appeal against deportation was allowed on human rights grounds by First-tier Tribunal Judge Easterman ('the judge') on 27 April 2022.
2. The Secretary of State appealed on the grounds the judge erred in law in failing to give adequate reasons for finding the appellant is socially and culturally integrated into life in the UK and there were no very significant obstacles to integration in Mogadishu, Somalia.
3. The respondent submitted the judge failed to consider Binbuga (Turkey) v SSHD [2019] EWCA Civ 551; SB (refugee revocation: IDP camps) Somalia [2019] UKUT

00358 (IAC) and Bossade (ss.117A-D- interrelationship with Rules) [2015] UKUT 00415 (IAC). Permission was granted by Upper Tribunal Judge O'Callaghan on 24 October 2022 on the basis it was arguable that relevant precedent was not considered when considering the two issues relied on in the grounds.

Summary of the judge's findings

4. The appellant left Somalia aged one and lived in Kenya. He came to the UK in June 2007 when he was 12 years old. In January 2018, he was sentenced to two consecutive terms of three years' imprisonment for possession of class A drugs (heroin and cocaine) with intent to supply. The appellant has served three years in prison and will complete the remainder of his sentence on licence until November 2023.
5. The judge upheld the section 72 certificate. He considered relevant country guidance in OA (Somalia) CG [2022] UKUT 00033 (IAC) and MOJ (Return to Mogadishu) Somalia CG [2014] UKUT 00442 (IAC) and found the appellant could not succeed on asylum, humanitarian protection or Article 3 grounds. The appellant did not challenge these findings.
6. In relation to Article 8, it was accepted the appellant had been in the UK lawfully for at least half of his life. The judge considered whether the appellant was culturally integrated given his criminal offending. Prior to the drugs offences the appellant had one previous conviction in August 2017 for driving offences.
7. At [107], the judge found the appellant had lived in the UK with his family since the age of 12 and prior to that he had lived in Kenya. The judge stated the appellant got to the age of 22 years old without significantly offending and made the following finding:

"While any offending suggests a person may not be culturally integrated, looking at the appellant's history overall I find on balance, (sic) is in fact socially and culturally integrated into this country."
8. It is apparent from earlier paragraphs in the decision, where the judge records the appellant's unchallenged evidence, that the appellant had attended school and college; he had worked in the UK in a warehouse, as a mailman and as a telephone operator for a cab company; and he had a strong bond with this family.
9. At [108], the judge considered the main issue: whether there were significant obstacles to integration in Somalia. The judge noted the appellant had not lived in Somalia since he was a year old and he does not speak one of the main languages. Although, the appellant spoke English and Swahili, it was not apparent from the background material how widely these languages were used in Somalia or whether it was sufficient for the appellant to integrate in Somali society. The appellant was from a minority clan and had no close family in Somalia.
10. At [111], the judge considered OA and rejected the appellant's claim that he would not be in receipt of remittances from outside Somalia. The judge concluded that the appellant's inability to speak Somali would seriously inhibit his chances of finding work even given his education in the UK and the course the appellant had undertaken in prison. The evidence suggested there would be little assistance from the Bravanese clan on return to Mogadishu. It is apparent from [97] that the judge considered government funding on return.

11. In summary, the judge concluded there were very significant obstacles to integration if the appellant was deported Somalia, which he left when he was a year old, and where he had no real experience of how that complex society worked and he did not speak the officially recognised language.

Submissions

12. Mr Tufan relied on the grounds and submitted the judge had given inadequate reasons. In reply to the appellant's rule 24 response, he submitted the case of CI (Nigeria) [2019] EWCA Civ 2027 was decided at the same time as AM (Somalia) [2019] EWCA Civ 744 in which the Court of Appeal concluded that a lengthy period of imprisonment was enough to break integrative links in the UK. On a proper application of Kamara [2016] EWCA Civ 813, the appellant would be enough of an insider so as to have a reasonable opportunity to be accepted there: Mwesezi [2018] EWCA Civ 1104. Mr Tufan submitted the judge's findings at [108] were inconsistent and the appellant's inability to speak Somali was not enough to show he could not benefit from the economic boom.
13. Ms Fisher relied on her rule 24 response and AA (Nigeria) [2020] EWCA Civ 1296. There was no challenge to the judge's factual findings. The judge had looked at all the circumstances and it was open to him to conclude that prison had not broken the appellant's integrative links. The judge found the appellant was educated and had worked in the UK. Binbuga could be distinguished on its facts. The appellant in the present case was not a persistent offender or gang member. The decision should be read as a whole. The appellant left Somalia when he was one year old and had no close family members there. He lives with his mother and siblings and it was open to the judge to find he was culturally integrated in the UK. The judge's reasons at [107] adequately support this finding.
14. Ms Fisher submitted that the judge took into account government funding on return to Somalia and found the appellant would benefit from remittances from abroad. He concluded the appellant would not be destitute. However, this was a different test to whether there were very significant obstacles to integration. The appellant was not familiar with how Somali society worked in Mogadishu, he could not speak the language and had no connection to family or minority clan members. Swahili was not an official language. The judge's reasons were adequate and there was no inconsistency. The judge properly applied country guidance and Kamara. There was no error of law.

Conclusions and reasons

15. I remind myself of Sicwebu v SSHD [2023] EWCA Civ 550 at [49]:

"Appeals to this court from the Upper Tribunal are limited to appeals on a point of law: see section 14(1) of the Tribunals, Courts and Enforcement Act 2007. Absent an error of law, the appeal must be dismissed. Furthermore, as a specialist fact-finding tribunal, this court should not rush to find an error of law in the decision of the tribunal simply where it might have reached a different conclusion on the facts: see *AH (Sudan) v Secretary of State for the Home Department* [2007] UKHL 49, [2008] 1 AC 678 at paragraph 30. I have borne these principles in mind when considering the impugned decision in this case."

16. The appellant has lived in the UK since he was 12 years old and has attended school and college. He had 10 years' lawful residence before he started offending and served three years in prison and three years on licence. The judge considered the appellant's nature and frequency of offending and the length of time in prison in concluding the appellant is socially and culturally integrated in the UK. The judge gave adequate reasons at [107] for coming to this conclusion.
17. The judge took into account all relevant matters and properly directed himself in law. His finding that there were very significant obstacles to integration was consistent with Kamara:

“The idea of "integration" calls for a broad evaluative judgment to be made as to whether the individual will be enough of an insider in terms of understanding how life in the society in that other country is carried on and a capacity to participate in it, so as to have a reasonable opportunity to be accepted there, to be able to operate on a day-to-day basis in that society and to build up within a reasonable time a variety of human relationships to give substance to the individual's private or family life.”
18. The judge found the appellant left Somalia when he was one year old and he has no real experience of how that complex society works. He did not speak Somali and had no family or clan connections in Mogadishu. The judge's findings were open to him on the evidence before him. His reasons at [108] to [112] adequately demonstrate why the judge concluded there were very significant obstacles to integration.
19. Accordingly, I find there was no material error of law in the decision of 27 April 2022 and I dismiss the appeal.

Notice of Decision

The Secretary of State's appeal is dismissed

J Frances

Judge of the Upper Tribunal
Immigration and Asylum Chamber

31 July 2023