



IAC-AH-SC-V1

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

Appeal Number: AA/01461/2015

THE IMMIGRATION ACTS

**Heard at Bradford
On 2 February 2016**

**Decision & Reasons
Promulgated
On 5 May 2016**

Before

UPPER TRIBUNAL JUDGE CLIVE LANE

Between

**MOHAMOUD ABDI AL-AMUDI
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Diwnycz, a Senior Home Office Presenting Officer
For the Respondent: Mr Sills, instructed by JD Spicer Zeb, Solicitors

DECISION AND REASONS

1. The appellant, Mohamoud Abdi Al-Amudi, was born on 2 May 1987 and claims to be a citizen of Somalia. The appellant appealed to the First-tier Tribunal (Judge Hindson) against the decision of the Secretary of State to revoke his protection status and to deport him to Somalia. That decision was taken on 15 January 2015. The First-tier Tribunal in a decision promulgated on 26 August 2015, allowed the appeal. The Secretary of State now appeals, with permission, to the Upper Tribunal.

2. There is one ground of appeal which contains a number of different elements. In particular, the Secretary of State asserts that the judge failed to make proper findings and also perpetrated legal errors in respect of his application of *MOJ and Others (return to Mogadishu) Somalia CG* [2014] UKUT 00442 (IAC), in particular at head note (xi).

3. At [28] Judge Hindson summarised his findings as follows:

“I accept the following. The appellant is from a minority clan and fled Mogadishu in 2004 with his younger brother. He is from a sib-ship of nine and none of his brothers and sisters are in Somalia; they are in the UK or Yemen. He does not know where his parents are. He was four years old when the war in Somalia started and it is unsurprising that he has had no education, though he has had some education in prison. His family in the UK have provided some financial support to him here but could not support him in Mogadishu. This is because, they say, there is no practical way to get funds to someone in Somalia, and because they cannot afford to. I accept the latter point, it is one thing to meet the small extra cost of feeding and housing an extra person in the household, it is another to provide sufficient funds to support him with all of his living costs, even in a lower cost economy. His sister has seven children and relies on benefits and his brother has two jobs in order to manage financially. The appellant has been in the UK for over 10 years, from age 16 to 27 and has no skills that would help him to find work in Somalia. His journey to the UK was funded by a family member to whom he no longer has access.”

4. The appellant had been convicted of the particularly serious offence of attempted rape. The judge noted [23] that the “commission of the attempted rape, serious though it certainly is, is sufficient without more to lead to a finding that [the appellant] is a danger to the public.” The judge noted that the offence had occurred whilst the appellant was a minor and he had not subsequently been convicted of any offence. The judge was “therefore not satisfied that he is excluded from international protection by virtue of this provision (Section 72 Nationality, Immigration and Asylum Act 2002). That finding is not challenged in the grounds of appeal to the Upper Tribunal. Rather, it was the question of whether the appellant would be destitute (and therefore in need of humanitarian protection in the United Kingdom) if he returned to Somalia which particularly concerned the judge. The grounds assert that the judge had before him evidence from a Mr Hashim Mohamed (“who claims to be secretary general of the Somali Benadir Welfare Society”). This individual was also identified as “a friend of the family” and who had in the past been able to contact the appellant’s father albeit through third parties. The grounds assert that the judge had not considered whether Mr Mohamed or his organisation would be able to assist the appellant financially. Further, the judge had not made proper reference to any of the appellant’s eight siblings and their ability to provide financial assistance to the appellant. Further, that the appellant seems to have made no effort to contact his parents or find out where they were living in Somalia. The grounds assert that the judge’s finding [21] (“*I am satisfied it would be at best difficult for the appellant to re-establish contact with his family in Somalia, even if*”

that is where they are.") was insufficiently supported by reasons. The likelihood of the appellant becoming destitute had not been established; the MOJ head note from [x] was "predicated upon the appellant having been accepted as having 'no nuclear family or close relatives in the city to assist him in re-establishing himself on return.'" That premise had not been established in the appellant's case. There remained the possibility that the appellant's parents continue living in Mogadishu.

5. I find that the Secretary of State's appeal should be dismissed. I am satisfied that Judge Hindson has considered all the evidence as he indicated he would do in reaching his decision [9]. The judge found that the appellant was a credible witness and accepted *inter alia* that the appellant was simply unable to contact his family in Somalia, assuming that they continue to live there. The judge clearly had in mind the lengthy period during which the appellant had been absent from Somalia whilst living in the United Kingdom. I do not accept that the challenge to the judge's analysis on the basis of inadequate reasoning has been made out in this instance. Further, as the judge noted, there was no evidence that family members of the appellant living outside Somalia would be able to continue to support him whilst he was living there in the medium to longer term. The suggestion that Mr Mohamed and his Somali Benadir Welfare Society should support the appellant is without any foundation in the evidence. Ultimately, I find that the judge reached a conclusion which was available to him on the evidence. The grounds of appeal ultimately amount to little more than a disagreement with the judge's conclusion.
6. The judge also was asked to consider whether the cessation of the appellant's refugee status by the Secretary of State was lawful [24] - [26], he wrote as follows:

"24. I turn now to the cessation decision made under the following provision of the Immigration Rules;-

'339A. A person's grant of asylum under paragraph 334 will be revoked or not renewed if the Secretary of State is satisfied that:

(v) he can no longer, because the circumstances in connection with which he has been recognised as a refugee have ceased to exist, continue to refuse to avail himself of the protection of the country of nationality;'

25. In finding that these requirements are now satisfied, the respondent claims that the situation in Somalia is now substantially different from when the appellant was granted asylum, relying in particular on the current Country Information and the decision in MOJ & Others (Return to Mogadishu) Somalia CG [2014].

26. I note that MOJ deals with the changed situation in Mogadishu, rather than the country as a whole and that the test for cessation of protection is not the same as that for international protection for an asylum-seeker, I have nevertheless considered the appellant's position in the light of the decision in MOJ, as the respondent has."

7. Because he went on subsequently to find that the appellant would, in effect, be destitute upon return to Somalia, the judge has (perhaps understandably) not dealt with this issue in any depth. I have to say, however, that I accepted the force of Mr Sills' submissions (made before both Tribunals) that the appellant's criminal offending was not a reason to bring his refugee status to an end and, further, that the requirements set out in the UNHCR Guidelines on International Protection No. 3: Cessation of Refugee Status are clearly not established in the case of Somalia, a geographical area which continues to have no proper functioning unitary government or system of law and justice. It remains difficult to see how the cessation of the appellant's refugee status can have been made in accordance with those guidelines and also the decision in *Abdulla (C-175/08) [2008]*.

Notice of Decision

8. This appeal is dismissed.
9. No anonymity direction is made.

Signed

Date 20 April 2016

Upper Tribunal Judge Clive Lane