



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

Appeal Number: PA/08218/2016

THE IMMIGRATION ACTS

**Heard at Field House
On 14 July 2017**

**Decision & Reasons Promulgated
On 1 August 2017**

Before

UPPER TRIBUNAL JUDGE PERKINS

Between

**A--- K--- A---
(ANONYMITY DIRECTION MADE)**

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms G Loughran of Counsel instructed by Wilson Solicitors LLP

For the Respondent: Mr P Deller, Home Office Presenting Officer

DECISION AND REASONS

1. Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 I make an order prohibiting the disclosure or publication of any matter likely to lead members of the public to identify the respondent. Breach of this order can be punished as a contempt of court. I make this order because of the need for extreme care in cases involving international protection lest publicity creates a risk for the applicant that would not otherwise exist.
2. This is an appeal by a citizen of Somalia against the decision of the First-tier Tribunal Judge dismissing his appeal against the decision of the respondent that he is not a refugee. It is a slightly unusual, and in some senses irrelevant, feature of the case that the appellant has leave to be in the United Kingdom. He was given discretionary leave because he is a married man with three children. His wife and three children are all British citizens and the Secretary of State was satisfied that there were very significant difficulties in the way of the

family establishing itself in Mogadishu. Nevertheless, the appellant is entitled to assert his claim to refugee status and entitled to complain if he says it has been refused wrongly.

3. The First-tier Tribunal accepted parts of his case. The judge accepted that the appellant has been a teacher, that he was targeted by Al-Shebab who captured him in his school, but decided that he was no longer at risk because Al-Shebab were no longer powerful in the home area. As anyone with any familiarity with the situation in Somalia knows, the threat from Al-Shebab has risen and fallen and is subject to change so and it is essential to the reasons for dismissing the appeal that the finding that the appellant is safe in his home area is based on a thoroughly sound premise.
4. Regrettably, it is not.
5. It has always been the appellant's case, about which no finding has been made, that his home area is in the most southerly province of Somalia called Juba Hoose and he lived in an area not very far away from Kismaayo. For reasons that are frankly unfathomable, the First-tier Tribunal decided that the appellant's home area was a part of Somalia that the judge called "Lower Shabelle". Although the judge referred in his Decision and Reasons to a map of Somalia in the papers, there is no area on that map known as Lower Shabelle. Ms Loughran, Mr Deller and I are inclined to assume, we do not actually know, that the judge meant Shabelle Hoose which is the most southerly of the two provinces with the name Shabelle, the more northerly one being Shabelle Dhexe. It is quite impossible to have any confidence that the judge has applied his mind to the correct area of Somalia and that means that his decision that the appellant would be safe in his home area cannot possibly be sound. That part of the decision must be set aside.
6. It was the judge's finding that the appellant would have some difficulty in establishing himself in Mogadishu. The judge recognised that the appellant was from a minority clan. He accepted the evidence that he had no experience of living in Mogadishu. The appellant's wife lived there as a child but that is of limited relevance. No extended family members have been identified. His wife would not be in a position to give him significant financial support to help him, but the judge decided that he would be able to get some support from other members of the minority clan in Mogadishu in the event of his return there.
7. The judge then decided that the appellant was not a refugee because he could reasonably be expected to return to Mogadishu. The difficulty with that finding is there is no clear justification for the judge's conclusion that the limited support he would have from other members of the minority clan would be sufficient. That is not to say the judge was wrong. The point is that the explanation is so inadequate that I have to say that it amounts to an error of law.
8. It follows therefore the judge has made two very significant mistakes. He has decided on a wrong basis that the appellant would be safe in his home area because he has not identified properly the home area and he has decided that the appellant would be safe in Mogadishu but does not explain where the support would come from other than alluding to minority clan support. These

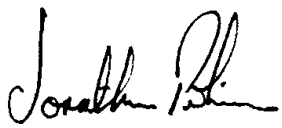
errors cumulatively, and probably individually, make the determination unsound.

9. Mr Deller was not able to argue against these propositions which I find are made out.
10. Ms Loughran wishes to be able to prepare fully the case showing the difficulties on return and expects to do that by calling further evidence. It is therefore appropriate that the decision that I must set aside is accompanied by a decision that the case is remitted to the First-tier Tribunal where it can be decided again on fresh evidence, if that is what the appellant chooses to do.
11. As has been apparent in what I have said so far, the judge made certain findings of fact which I have identified. They cannot be criticised and they stand as the starting point in any reconsideration of this appeal.

Notice of Decision

12. For the reasons given I find the First-tier Tribunal erred in law. I set aside its decision and I direct the case be decided again in the First-tier Tribunal with the findings of fact indicated preserved.

Signed
Jonathan Perkins
Judge of the Upper Tribunal



Dated 31 July 2017