



**Upper Tribunal  
(Immigration and Asylum Chamber)  
PA/10152/2016**

**Appeal Number:**

**THE IMMIGRATION ACTS**

**Heard at Field House**

**Decision & Reasons**

**On 19 October 2017**

**Promulgated**

**On 8 November 2017**

**Before**

**UPPER TRIBUNAL JUDGE RINTOUL**

**Between**

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

Appellant

**and**

**M N**

**(ANONYMITY DIRECTION MADE)**

Respondent

**Representation:**

For the Appellant: Mr N Bramble, Home Office Presenting Officer  
For the Respondent: Mr P Lewis, Counsel, instructed by Birnberg Peirce & Partners

**DECISION AND REASONS**

1. The Secretary of State appeals with permission against a decision of First-tier Tribunal Judge Beach promulgated on 23 June 2017 in which she allowed the appeal of Mr M N against a decision of the Secretary of State to deport him as a foreign criminal consequent upon his conviction of three counts of wounding with intent, to which he had been sentenced on 27 March to three years and four months' imprisonment.
2. It is accepted that Mr M N, to whom I refer for ease of reference as the appellant, as he was in the First-tier Tribunal, is a citizen of Somalia and

that he has been in the United Kingdom for a significant period of time. These details and the details of his family, his offences and the difficulty he has had with alcohol use are set out in significant detail in Judge Beach's decision and in the circumstances and given the narrow nature of the appeal I do not intend to repeat them.

3. The judge, having directed herself in connection with Section 117C of the Nationality, Immigration and Asylum Act, Section 117B also considered paragraph 399A of the Immigration Rules in detail. She found that he had been lawfully resident in the United Kingdom for most of his life, that he was socially and culturally integrated into the United Kingdom and found also that there would be very significant obstacles to his integration into Somalia, the country to which it was proposed that he be deported. The judge reached the latter conclusion having directed herself to follow the decision in MOJ & Ors (Return to Mogadishu) Somalia CG [2014] UKUT 442, taking particular note of the judicial headnote at subparagraphs (ix) to (xi). It is, I consider, important to note that the appellant is not from Mogadishu.
4. The judge's findings with regard to MOJ are specifically set out at paragraphs [77] to [83]. She found in considering the ability to integrate that there would be little prospect of any funds coming from family in the United Kingdom, that although there had been a tendency to downplay such contacts that there was in effect no family ties other than tenuous ones if that in Somalia, he would be unlikely to have any real connection or ties with anyone in Somalia and he would be returning without that support, that there was little or no financial support given the family in the United Kingdom's situation, that he would be returning to a country where he had not lived for many years and which had changed considerably without financial remittances, that whilst there had been an economic boom in parts of Somalia those returning from the Diaspora are often best placed in finding employment this had to be based against an increase in accommodation prices and whilst he had some skills which he might be able to utilise the extent to which he can use these is unknown, that the ability to find employment was only one relevant factor, that he would have difficulties in reintegrating and there was a real possibility he would end up in an IDP camp and that accordingly he had met the test to show that there were very significant obstacles.
5. The Secretary of State sought permission to appeal against that decision on two primary grounds: first, that the decision that the appellant had become socially and culturally integrated into the United Kingdom was incorrect and further that the judge had erred in concluding that there were very significant obstacles of integration into the country in Somalia.
6. Permission to appeal against the decision of Judge Beach was granted by Deputy Upper Tribunal Judge Davey on 15 August, the ground being limited to the second challenge, the judge considering that the first ground was simply a disagreement with the judge's view of the matter.

7. In assessing the challenge to the judge's decision Mr Bramble drew my attention specifically to the somewhat equivocal findings by the judge at paragraphs [77], [81] and [82], in which the judge said that there was some degree of downplaying of the evidence, which he had accepted and that the judge had failed properly to engage with the factors set out in MOJ, appearing to have attached too much weight wrongly to a report from UNHCR which is set out in paragraph 73 of the decision. He submitted that the findings were flawed with specific reference to the family and prospects of employment.
8. Mr Lewis relied on his Section 24 response, drawing my attention to the fact that the appellant is not from Mogadishu and specifically to the passages at paragraphs [44] to [45] of the decision in MOJ which deal in more detail with those who are not from Mogadishu. He submitted further that the judge had properly considered the factors cumulatively and had reached conclusions about the likelihood of the appellant being able to obtain a livelihood which were open to her given the evidence of the difficulty that the appellant had had in holding down a job in the United Kingdom and being unable to find employment except as a security guard.
9. In considering the findings made by the judge, in particular those that the Secretary of State seeks to impugn, I consider that contrary to what is submitted at paragraphs [77], [81] and [82] the judge expressly took a balanced view of the evidence. This is a case in which the judge considered that there was some evidence pointing in one direction, yet other evidence pointed in another. The weight attached to those various factors was manifestly a matter for the judge and she reached properly reasoned findings of fact in respect particularly of the issues regarding alcohol abuse at paragraph [77] and at paragraph [81] that although there had been a tendency to downplay the evidence by the family that she accepted that the family had in fact relocated and, as it was open to her to find, that it was likely that their ties with Somalia would have lessened as a result of the movement of the family to the United Kingdom and she reached a proper and adequately reasoned finding that it was unlikely that the appellant would have any real connection or ties with anyone in Somalia and would therefore be returning without such support.
10. Similarly, at [82] it was open to the judge to consider the somewhat different evidence with regard to financial support and to note some downplaying and equally the judge has a given proper and adequately reasoned decision as to why there would not be financial support based on the evidence that she had heard.
11. Whilst there is, I consider, a couple of points where it is less clear why the judge had reached the conclusion with regard to the ability to obtain a livelihood I consider that it cannot be said that the judge took into account in reaching that conclusion matters which should not have been taken into account. It is evident that, as was incumbent on her, she considered the evidence as a whole, and it was open to her to conclude that the ability to find employment was only one relevant factor. Whilst this was undoubtedly a generous decision I consider that the judge's reasoning and

application of the factors set out in MOJ which, as the head note makes clear, are neither exclusive at paragraph 9, nevertheless she did consider all those which ought to have been included.

12. It is evident that she did take all the relevant matters into account and although she did not spend address in detail the ability to fund the journey to the West I consider that that, as Mr Lewis submitted, is not a relevant factor on the facts of this case, given the length of time that has elapsed since the appellant came to the United Kingdom and the circumstances in which he came here as a minor.
13. The means of support in the United Kingdom again, similarly, are somewhat different from the prospect of somebody who has lived here for a significant period. The judge has, I consider, given adequate reasons bearing in mind that the appellant is not from Mogadishu, for concluding that he would not be able to profit from an economic boom and again that while this was undoubtedly a generous decision she reached conclusions bearing in mind that the appellant is not from Mogadishu which were open to her.

### **SUMMARY OF CONCLUSIONS**

1. The decision of the First-tier Tribunal did not involve the making of an error of law and I uphold it.
2. I maintain the anonymity order made by the First-tier Tribunal

Signed

Date: 6 November 2017



Upper Tribunal Judge Rintoul