



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

Appeal Number: AA/01461/2015

THE IMMIGRATION ACTS

**Heard at Field House
On 10 December 2019**

**Decision & Reasons Promulgated
On 13 December 2019**

Before

UPPER TRIBUNAL JUDGE O'CONNOR

Between

**MA (SOMALIA)
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Anonymity Direction

I make an order under r.14(1) of the Tribunal Procedure (Upper Tribunal) Rules 2008 prohibiting the disclosure or publication of any matter likely to lead members of the public to identify the appellant. No report of these proceedings shall directly or indirectly identify the appellant. This direction applies to both the appellant and to the respondent and all other persons. Failure to comply with this direction could lead to contempt of court proceedings. Liberty to apply.

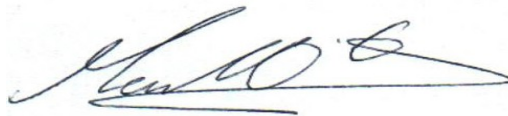
Representation:

For the Appellant: Mr A Burrett, instructed by JD Spicer Zeb Solicitors
For the Respondent: Mr D Clarke, Senior Presenting Officer

DECISION AND REASONS

1. By way of an order of 2 May 2018 the Court of Appeal remitted this matter to the Upper Tribunal in terms which included an order that:
 “[3] The appeal is remitted to the Upper Tribunal for it to give further directions as to the conduct of the appeal. Such directions are to include provision for the Respondent’s appeal to be heard afresh by a differently constituted Tribunal of the First Tier Tribunal, save that the conclusion of the First Tier Tribunal under s72 of the 2002 Act that the Respondent does not constitute a danger to the community is to be treated (subject to material change of circumstances since the First Tier Tribunal’s determination) as a binding determination of that issue.”
2. Since remittal the appeal has been stayed in the Upper Tribunal pending the outcome of the appellant’s application for legal aid to pursue an appeal against the Court of Appeal’s decision to the Supreme Court. The application to the LAA for funding has now been refused and a subsequent appeal dismissed. For the past 9 months the LAA and the appellant’s solicitors have been engaged in further correspondence on the issue. I am now told that the solicitors are contemplating issuing judicial review proceedings challenging the LAA’s decision but have not yet instigated proceedings.
3. The circumstances are such that it is now time to discharge the stay I imposed on these proceedings, and I do so.
4. Pursuant to paragraph 3 of the Court of Appeal’s order of 3 May 2018, I remit the appeal to the First-tier Tribunal to determine afresh “save that the conclusion of the First Tier Tribunal under s72 of the 2002 Act that the Respondent does not constitute a danger to the community is to be treated (subject to material change of circumstances since the First Tier Tribunal’s determination) as a binding determination of that issue.”

Signed: Upper Tribunal Judge O’Connor



Date: 10 December 2019