



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

Appeal Number: RP/00084/2015

THE IMMIGRATION ACTS

**Heard at Field House (via Skype)
On 8 September 2020**

**Decision and Reasons Issued
On 11 September 2020**

Before

UPPER TRIBUNAL JUDGE BLUNDELL

Between

**MS (SOMALIA)
(ANONYMITY DIRECTION MADE)**

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr R Khubber, instructed by Turpin & Miller LLP (Oxford)
For the Respondent: Mr D Clarke, Senior Presenting Officer

DECISION AND REASONS

1. On 4 September 2017, the First-tier Tribunal issued a decision allowing the appellant's appeal against the respondent's revocation of his protection status. The Secretary of State's appeal against that decision was dismissed by the Upper Tribunal on 21 March 2018.
2. The Secretary of State appealed to the Court of Appeal. That appeal was heard by Underhill, Hamblen and Newey LJ on 11 July 2019. On 29 July 2019, the Court of Appeal handed down a judgment (*MS (Somalia) v SSHD* [2019] EWCA Civ 1345) in which it allowed the Secretary of State's appeal against the Upper Tribunal's decision. The decision is now reported at

[2020] QB 364 and might properly be said to be the leading domestic authority on the cessation of refugee status. The Court of Appeal quashed the decisions of the FtT and the Upper Tribunal and remitted the appeal to the Upper Tribunal to be heard afresh, either by the Upper Tribunal or by the FtT, if so directed.

3. The appellant sought permission to appeal to the Supreme Court. Permission was refused on 30 June 2020, as a result of which it falls to the Upper Tribunal to consider the order made by the Court of Appeal. To that end, there was a Case Management Hearing before me today. Mr Khubber, for the appellant, had produced a very helpful note in advance of the hearing. He noted, amongst other things, that the appellant is currently serving a sentence of imprisonment and that the case involves a number of legal and factual issues relating to the Refugee Convention. Orally, he added that there were also Article 8 ECHR issues to be considered, not least because the appellant has been in the UK since 2002. Given the scope of the issues to be considered, it was Mr Khubber's submission that the appeal should be remitted to the FtT to be heard afresh.
4. Mr Clarke did not disagree with any part of Mr Khubber's submissions. He agreed, in particular, that the proper course was for the appeal to be reheard in the FtT. It is fair to say that both representatives accepted that the complexity of the case militated in favour of the appeal being retained in the Upper Tribunal but that remission was considered by both, on balance, to be the just course. With some hesitation, I accept these submissions. The law is now clear as a result of the Court of Appeal's judgment - cessation is the mirror image of recognition and the availability of internal relocation may give rise to a fundamental and durable change such that cessation is appropriate - although it is simpler to state these principles than to apply them. Given the quashing of the FtT's decision and the scope of the issues upon which findings are required, I accept the submission made on both sides that the proper course is remission.
5. The appellant is currently detained at HMP Moorland, near Doncaster, and is not due for release until January 2021. The nearest FtT hearing centre is in Bradford, and it is to that centre that the appeal will be remitted. As Mr Khubber accepted, it is not for me to case manage the appeal post-remission. That falls to the Resident Judge at Bradford. For the assistance of the FtT, however, I note that Mr Khubber submits that a full day's listing is appropriate; that further expert evidence is being sought and will be available in early December; and that a fully 'attended' hearing would be necessary, given the appellant's detention and his vulnerability. The FtT might wish, in the circumstances, to have a further CMR on remission.

Notice of Decision

The decision of the FtT was quashed by order of the Court of Appeal. The appeal is remitted to the FtT to be heard afresh.

Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008

Anonymity has been ordered throughout and it is plainly appropriate to continue that order as this is an international protection appeal. The order is in the following terms:

Unless and until a Tribunal or court directs otherwise, the appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify him or any member of his family. This direction applies both to the appellant and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.

M.J.Blundell
Judge of the Upper Tribunal
Immigration and Asylum Chamber