



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2024-000674
First Tier No: PA/52440/2023
LP/03175/2023

THE IMMIGRATION ACTS

Decision & Reasons Issued:
On 29th May 2024

Before

UPPER TRIBUNAL JUDGE BRUCE

Between

AIJ (Somalia)
(Anonymity order made)

Appellant

and

Secretary of State for the Home Department

Respondent

Representation:

For the Appellant: Ms L. Mair, Counsel instructed by
Greater Manchester Immigration Aid Unit
For the Respondent: Mr C. Bates, Senior Home Office Presenting Officer

Heard at Manchester Civil Justice Centre on 20 May 2024

Order Regarding Anonymity

Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 the Respondent is granted anonymity.

DECISION AND REASONS

1. The Appellant is a national of Somalia born in 2004. He appeals with permission against the decision of the First-tier Tribunal (Judge Power) to dismiss his appeal on protection grounds.

2. The Appellant is to be treated as a vulnerable witness for the purpose of this appeal: this is because of his young age and stated mental ill-health.
3. The background to this appeal is that the Appellant arrived in the United Kingdom aged 17 in August 2021. He is a member of the Gabooye minority clan. The Appellant stated that for that reason his family faced persecution by the majority Hawiye clan in their home town of Qoryole. The Appellant describes how Hawiye men came to the family land threatening his father, and that those men returned about three months later to kill his father, and then his brother, who had tried to defend the land. Fearing for her eldest remaining son, the Appellant's mother made arrangements for his departure from Somalia. On appeal the Appellant produced an expert report. He relied on this report, as well as materials produced by the Respondent's own country policy and information unit, to support his contention that the Gabooye have had their land seized, and faced general persecution, from members of the majority clans in Somalia.
4. In its decision dated the 31st January 2024 the First-tier Tribunal dismissed the appeal. It identified several discrepancies in the Appellant's account which it found cumulatively undermined his claims. The Tribunal found certain aspects of the expert evidence to be inconsistent with the Appellant's own account and where the expert evidence was supportive of it, that evidence could only attract little weight as it was "unattributed". Further his evidence was inconsistent with country guidance and the CPIN about Mogadishu. The Tribunal did not therefore accept that the Appellant had a well founded fear of persecution.
5. Permission to appeal to the Upper Tribunal was granted by First-tier Tribunal Grimes on the 28th February 2024 on the grounds that the First-tier Tribunal had arguably failed to properly weigh the Appellant's age/vulnerabilities in the round when assessing his evidence, had - I paraphrase - cherry picked the expert evidence, and on this central ground relied upon by Ms Mair: in respect of the 'inconsistencies' relied upon by the First-tier Tribunal in reaching its conclusion, a procedural unfairness arises in that none of those discrepancies were put to the Appellant.
6. For the Respondent Mr Bates concedes that the grounds are made out to the extent that the decision must be set aside. Mr Bates accepts that the numerous adverse credibility findings reached by the First-tier Tribunal are unsafe for procedural unfairness: the Appellant was not put on notice of any of these challenges and so had no opportunity to respond to them. Further it is accepted by the Respondent that the Tribunal erred in placing weight on evidence concerning Mogadishu: the Appellant's account of persecution is set in Qoryole and the Tribunal did not apparently consider the expert evidence that conditions there are materially different.
7. In view of the fact that this appeal turns on the fairness of the proceedings below, the parties agree that it is appropriate that the matter be remitted to be heard *de novo* by a judge other than Judge Power.

Decisions

8. The decision of the First-tier Tribunal is set aside.
9. The decision in the appeal is to be remade following a *de novo* hearing before a judge of the First-tier Tribunal other than Judge Power.

10. There is an order for anonymity in this ongoing protection appeal.

Upper Tribunal Judge Bruce
Immigration and Asylum Chamber
20th May 2024