



**Upper Tribunal**

**(Immigration and Asylum Chamber)**

**Appeal Number: PA/08918/2018**

**THE IMMIGRATION ACTS**

**Heard at Manchester Civil Justice Centre    Decision and Reasons Promulgated**  
**On 9 July 2019    On 17 July 2019**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE BIRRELL**

**Between**

**ABDI ISMAIL GURE**

**(ANONYMITY DIRECTION NOT MADE)**

Appellant

**and**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr Aziz of Lei Dat Baig Solicitors

For the Respondent: Ms Groves Senior Home Office Presenting Officer

**DECISION AND REASONS**

## Introduction

1. I have considered whether any parties require the protection of an anonymity direction. No anonymity direction was made previously in respect of this Appellant. Having considered all the circumstances and evidence I do not consider it necessary to make an anonymity direction.
2. This is an appeal by the Appellant against the decision of First-tier Tribunal Judge Thorne promulgated on 30 January 2019, which dismissed the Appellant's appeal against the refusal of a protection claim on all grounds.

## The Judge's Decision

3. The Appellant appealed to the First-tier Tribunal. First-tier Tribunal Judge Thorne ("the Judge") dismissed the appeal against the Respondent's decision. The Judge found the Appellant came from the area he claimed and left because of issues with Al Shabab but did not accept that the Appellant was from a minority clan. He considered whether the Appellant could relocate to Mogadishu as an ordinary civilian and found that he could.
4. Grounds of appeal were lodged arguing that the Judge had failed to take into account the guidance set out in MOJ& Ors (Return to Mogadishu) Somalia CG [2014] UKUT 00442 (IAC) and on 1 May 2019 Judge Andrew gave permission to appeal.
5. At the hearing I heard submissions from Mr Aziz on behalf of the Appellant that:
  - (a) The Judge failed to take into account the period of absence from Mogadishu and the fact that he had no family support there.
  - (b) That the bullet points set out in MOJ were not properly considered.
6. On behalf of the Respondent Ms Groves submitted that:
  - (a) MOJ set out a non exhaustive list of factors that were to be taken into account in assessing whether an Appellant could relocate to Mogadishu.

- (b) The Judge assessed all of the relevant circumstances.
- (c) Having no family was not determinative.
- (d) The Judge found that the Appellant had the prospect of finding work

## **The Law**

- 7. Errors of legislative interpretation, failure to follow binding authority or to distinguish it with adequate reasons, ignoring material considerations by taking into account immaterial considerations, reaching irrational conclusions on facts or evaluation or giving legally inadequate reasons for the decision and procedural unfairness, constitute errors of law.
- 8. It is not an arguable error of law for an Immigration Judge to give too little weight or too much weight to a factor, unless irrationality is alleged. Nor is it an error of law for an Immigration Judge to fail to deal with every factual issue under argument. Disagreement with an Immigrations Judge's factual conclusions, his appraisal of the evidence or assessment of credibility, or his evaluation of risk does not give rise to an error of law.

## **Finding on Material Error**

- 9. Having heard those submissions I reached the conclusion that the Tribunal made no material errors of law.
- 10. As to the duty to give reasons I take into account what was said by the Court of Appeal in MD (Turkey) [2017] EWCA Civ 1958 at paragraph 26:

*"The duty to give reasons requires that reasons must be proper, intelligible and adequate: see the classic authority of this court in Re Poyser and Mills' Arbitration [1964] 2 QB 467. The only dispute in the present case relates to the last of those elements, that is the adequacy of the reasons given by the FtT for its decision allowing the appellant's appeal. It is important to appreciate that adequacy in this context is precisely that, no more and no less. It is not a counsel of perfection. Still less should it*

*provide an opportunity to undertake a qualitative assessment of the reasons to see if they are wanting, perhaps even surprising, on their merits. The purpose of the duty to give reasons is, in part, to enable the losing party to know why she has lost. It is also to enable an appellate court or tribunal to see what the reasons for the decision are so that they can be examined in case some error of approach has been committed."*

11. The Judge did not accept that the Appellant was, as he claimed, a member of a minority clan and this part of his decision was not challenged in the grounds of appeal.
12. The Judge clearly had in mind the guidance in MOJ whose headnote he set out in full at paragraph 42 of the decision because he states this at paragraph 48 and indeed in assessing the Appellants return as an 'ordinary civilian' he was reflecting the words of the decision at the Country Guidance section at (ii) recognising contrary to what is asserted in the grounds that the Appellant was returning after a period of absence.
13. The Judge recognised at paragraph 50 that the Appellant had no family in Mogadishu but no where in MOJ is it suggested that this is determinative of the appeal. The Judge was entitled to find that as someone who was in good health, was literate, speaks Somali and was a fully trained tailor there was a reasonable prospect of 'securing a livelihood' (again reflecting the words of the guidance in MOJ at (ix) . Given that MOJ states at (x) that '*it will be for the person facing return to explain why he would not be able to access the economic opportunities that have been produced by the economic boom, especially as there is evidence to the effect that returnees are taking jobs at the expense of those who have never been away*' the Judge was entitled to note that his only reason for not being able to live in Mogadishu was he knew no one was insufficient to establish that it was unreasonable for someone in his circumstances to relocate.
14. I therefore satisfied that the Judge's determination when read as a whole set out findings that were sustainable and sufficiently detailed and based on cogent reasoning.

## **CONCLUSION**

15. I therefore found that no errors of law have been established and that the Judge's determination should stand.

## **DECISION**

16. The appeal is dismissed.

Signed

Date 11.7.2019

Deputy Upper Tribunal Judge Birrell