



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

Appeal Number: DA/01635/2013

**THE IMMIGRATION ACTS**

**Heard at Field House**

**On 21 May 2014**

**Determination**

**Promulgated**

**On 23 June 2014**

**Before**

**MR JUSTICE GREEN  
SITTING AS A JUDGE OF THE UPPER TRIBUNAL  
UPPER TRIBUNAL JUDGE CHALKLEY**

**Between**

**ABDIWAHID ABDIRAHMAN ABDULAH**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: Mr A Burrett, Counsel instructed by J D Spicer Zeb Solicitors

For the Respondent: Mr P Deller, Home Office Presenting Officer

**DETERMINATION AND REASONS**

1. The essence of the appeal before us today is that the Tribunal has failed to make specific findings of fact relating to this particular appellant. The appeal is brought with the permission of the Upper Tribunal against the

decision of the First-tier Tribunal posted on 1 April 2014 dismissing the appellant's appeal against the decision of the SSHD of 20 August 2013 which itself made a deportation order pursuant to Section 32(5) of the UK Borders Act 2007.

2. The appellant is a Somali national born on 15 March 1988. He arrived in the United Kingdom on a false passport on 11 June 2009 and was arrested and thereafter detained. He claimed asylum. He pleaded guilty to the offence of with intent knowingly possessing false or improperly obtained documents and was sentenced to twelve months' imprisonment on 26 June 2009. There was no appeal.
3. He appealed the decision of the Secretary of State to the First-tier Tribunal. The First-tier Tribunal stated in paragraph 22 of its determination as follows:

"It is necessary to make a finding of credibility concerning the evidence of the appellant. We have made such a finding only after mature consideration of all relevant and material circumstances. In making this finding we have taken into account all the relevant evidence in the round and have attached such weight as we consider properly attributable thereto."

4. In paragraph 7 of the determination the Tribunal set out in detail the appellant's case and in paragraph 8 the Tribunal referred and summarised in detail the expert report of a Dr Mullen on 20 December 2013. The Tribunal rejected the appellant's appeal and in paragraph 29 stated as follows:

"Mindful of the country information and the opinion of Dr Mullen acknowledging that al-Shabaab have been displaced from the whole of Mogadishu but recognising that this fact does not signify that their influence has been entirely removed, we have reached the conclusion that that the situation in Mogadishu should no longer be regarded as presenting a general risk of Article 15(c) harm. The appellant's personal circumstances are such that he would not be at a real risk. His personal circumstances are such that he will not be at an additional risk above that which applies to the civilian population generally. Such violence as does occur cannot be said to be indiscriminate as it is targeted at specific individuals or properties."

5. The gist of the Tribunal's finding therefore was that the appellant was to be treated as one of the many but was not a "specific individual" who might be targeted by al-Shabaab were he to be returned.
6. In the course of submissions before us today Mr Burrett for the appellant has pointed out that since the Tribunal considered that the appellant's credibility was pivotal to their reasoning that it was incumbent upon them properly to analyse those issues of credibility that focused upon the issue whether he would in actual fact be at particular risk were he to be

returned to Mogadishu. In particular and by reference to the summary of the appellant's evidence in paragraph 17 Mr Burrett identified the following as particular issues upon which the Tribunal should have made findings.

7. First, whether the Tribunal accepted that close members of the appellant's family had been killed because they were members of Reer Hamar. Secondly, whether al-Shabaab had in fact sought to recruit the appellant in 2009. Thirdly, whether the appellant had in fact refused to join al-Shabaab. Fourthly, the circumstances of his alleged escape from al-Shabaab and their detention. Fifthly, factual evidence in May 2009 concerning the incursion by armed members of al-Shabaab into the appellant's house and the circumstances pursuant to which he fled from the scene. There are also other issues relating to the business run by the appellant's family which were raised and which were not properly dealt with in the determination.
8. Mr Deller for the Secretary of State helpfully and frankly accepts that the Tribunal's findings are in some respects deficient. He draws a distinction between critical findings relating to the interaction of the appellant with al-Shabaab and other findings which he says may not be so central to the issues. However, he accepted that there were certain deficiencies in the analysis of this critical issue. It is for these reasons that we consider it appropriate to allow the appeal and as we have indicated we are remitting it to the First-tier Tribunal with a new composition for these critical issues to be re-evaluated.

Signed

Date

Mr Justice Green

## Approval for Promulgation

Name of Upper Tribunal Judge issuing approval:	Mr Justice Green
Appellant's Name:	Abdiwahid Abdirahman Abdulahi
Case Number:	DA/01635/2013

Oral determination (please indicate)

I approve the attached Determination for promulgation

Name:

Date:

Amendments that require further action by Promulgation section:

Change of address:

Rep:

Appellant:


Other Information: