



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

Appeal Number: AA/06199/2014

THE IMMIGRATION ACTS

**Heard at Bradford
On 25 March 2015**

**Decision & Reasons
Promulgated
On 14 April 2015**

Before

UPPER TRIBUNAL JUDGE CLIVE LANE

Between

**MAHAMED AHMED MAHAMED
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: In person

For the Respondent: Mrs Pettersen, a Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant, Mahamed Ahmed Mahamed, was born on 1 January 1992 and is a male citizen of Somalia. The appellant appeals against a decision of the First-tier Tribunal which was promulgated on 6 November 2014 (Judge Saffer; Judge Hussain). The First-tier Tribunal dismissed an appeal from the appellant against the decision of the respondent dated 19 June 2014 to refuse him leave to enter and make directions for his removal to Somalia. The appellant now appeals, with permission, to the Upper Tribunal.
2. The appellant appeared in person before the Upper Tribunal on 25 March (as he had before the First-tier Tribunal). The previous hearing had been adjourned because no interpreter had been present. I was careful to

explain the nature of the proceedings to the appellant and to tell him that he should notify me if, at any point during the hearing, he did not understand any part of those proceedings. I am satisfied the appellant did understand the proceedings and that he was given every opportunity to put his case.

3. Granting permission, Judge Andrew stated:

It is arguable that the judges did not properly analyse the mental health of the appellant and the effect that this would have on his safety when he returned to Somalia.

4. In addition to the question of the appellant's mental health, the grounds of appeal also challenged the decision of the First-tier Tribunal on the basis that it had failed to engage with the latest country guidance case (*MOJ (Return to Mogadishu) CG [2014] UKUT 442 (IAC)*). The grounds acknowledged that "some of the issues set out in *MOJ* were addressed by the FTTJs". However, the appellant asserts that the Tribunal failed to have proper regard to his clan associations, financial resources, likelihood of obtaining employment and how the appellant's travel to the United Kingdom was funded and why he would no longer be able to secure financial support upon return. The grounds complain that, although the Tribunal found that the appellant is from a majority clan, it failed to take account of the fact that clan membership is no longer as significant as it has been in the past.
5. The grounds also assert that the Tribunal did not adequately support with reasons its finding [28] that it was "reasonably likely that [the appellant] has family in Marka (his parents, three brothers and sister)".
6. I find that the Tribunal did not err in its application of country guidance. The logic of the grounds is somewhat difficult to follow. *MOJ* found that conditions in Somalia had changed and the clan membership (which had often been important if not determinative as regards the safety of return) is no longer so important as a "protection function" than as a means of accessing social and financial support mechanisms. The grounds seek to cast doubt upon the fact that the appellant's majority clan membership may assist him, stressing that clans may only "potentially" offer social and financial support and that his clan would be less likely than in the past to be able to protect him. It is not at all clear why these factors should increase to the level of real risk any problems which the appellant may encounter on return to Somalia. *MOJ* does not state that clan membership offers no protection to its members or that majority clan membership is itself a risk factor whilst it is clearly the case that members of powerful, socially cohesive majority clans (such as the appellant) are better placed than some other returnees in terms of finding work and social support.
7. The Tribunal did consider the question of the appellant's mental difficulties. The Tribunal [30] found that the appellant could use his majority clan membership to access "some support". The Tribunal accepted that "mental health services in Mogadishu are very unlikely to be anything other than rudimentary given the humanitarian problems over

many years". However, the Tribunal found that the appellant had "failed to establish he would be unable to access rudimentary support or that his sister could not send money for him to obtain such treatment as was available although he has established that his mental health problems are of such severity as to mean that it would be unduly harsh for him to relocate [within Somalia]" if he were unable to remain in Marka and access facilities there. Foremost in the Tribunal's thinking was its finding that the appellant could re-establish contact with his family members in Somalia and that, whilst mental health treatment might be only at a rudimentary level or available only in Mogadishu, mental health problems were such that his family would be able to offer support providing him with accommodation and financial assistance. There was evidence before the Tribunal that the appellant suffers from post traumatic stress disorder (PTSD).

8. The appellant had stated in his asylum interview [16] that he had last spoken with his family four months before (i.e. in January 2014). At [28], the Tribunal wrote, "we accept [the appellant] has been in touch [with his family]". The grounds assert that there was no evidence for the Tribunal to make that finding. I find that the ground has no merit. Even if there was no very good basis for the Tribunal finding the appellant had remained in touch with his family when he had last spoken to them some nine months previously, its alternative finding was manifestly available to it (*"even if he has lost contact with them we are satisfied that it is reasonably likely he could re-establish contact as he would be returning to his home area where his clan is linked to the majority clan and he could ask people where they are"*). Whether or not the appellant had remained in contact or would need to re-establish contact, the Tribunal was entitled to proceed on the basis the appellant would have not only the support of his family but also other members of his (majority) clan. As I have noted above, the ability of the appellant to obtain support from his family members supports, in turn, the Tribunal's finding that the appellant's mental health condition would not lead to his being exposed to a real risk of ill-treatment in Somalia. In consequence, the Tribunal did not err in law by dismissing the appellant's appeal. I find that the appellant's appeal to the Upper Tribunal should be dismissed also.

NOTICE OF DECISION

9. This appeal is dismissed.

No anonymity direction is made.

Signed

Date 6 April 2015

Upper Tribunal Judge Clive Lane

TO THE RESPONDENT **FEE AWARD**

I have dismissed the appeal and therefore there can be no fee award.

Signed

Date 6 April 2015

Upper Tribunal Judge Clive Lane