



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

Appeal Number: PA/02081/2018

THE IMMIGRATION ACTS

**Heard at Manchester
On 18 October 2018**

**Decision & Reasons
Promulgated
On 08 November 2018**

Before

**DR H H STOREY
JUDGE OF THE UPPER TRIBUNAL**

Between

**MR ABDOURAZACH KAHIN AHMED
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr G Brown, Greater Manchester Immigration Aid Unit
For the Respondent: Mr M Diwnycz, Home Office Presenting Officer

DECISION AND REASONS

1. The appellant, a national of Somalia, has permission to challenge the decision of Judge Davies of the First-tier Tribunal (FtT) sent on 3 April 2018 dismissing his appeal against the decision made by the respondent on 26 January 2018 to refuse his protection claim. The principal basis of the appellant's claim that if returned he would be at risk of serious harm from Al-Shabaab because he had worked for various NGOs as a freelance interpreter. The appellant said he would also be at risk because he was a

member of a minority class, the Ashraf. Neither the respondent nor the judge found these claims credible.

2. The appellant's grounds contend that the judge's adverse credibility findings were flawed because (i) he wrongly said the appellant had given no credible detail of his interpreter work; and (2) wrongly endorsed the respondent's assessment that he had not given adequate or accurate details of his being a member of the Ashraf clan. The grounds also submit that, even leaving credibility aside, the judge (3) wrongly assessed that the appellant could travel safely to his home area in Jowhar.
3. I am grateful for the submissions I heard from both representatives.
4. As regards ground (1), the judge was wrong to state in paragraph 56 that the appellant's account suffers from "a complete lack of any detailed or credible evidence as to what the Appellant actually did". On any fair reading the appellant had provided some detail, as can be seen from the judge's recording of his answers in cross-examination at paragraph 36. Nonetheless the judge was not incorrect to state that the appellant's account lacked detail as regards what he did on a "day-to-day basis". Beyond what is recorded at paragraph 36, which broadly repeated what he said in his statement, there was no stated recollection of particular occasions, who he liaised with, etc. Hence, on its own I do not consider the judge's overstatement amounted to a material error. Ground 1 also takes issue with the judge's treating adversely to the appellant the lack of evidence in support of his claim to have been a freelance interpreter. They take aim at the judge's statement at paragraph 60 that:

"60. It is significant in my view that the Appellant has not been able to provide any evidence from the non-government organisations he claims to have worked for in Somalia. His representatives do not appear to have made any attempt to confirm the Appellant's story with those organisations. As has been mentioned at the hearing those organisations operate on a worldwide basis. I believe those organisations would keep detailed records of their activities in Somalia. I believe they would keep accurate and detailed records of freelance interpreters they used if that was the case. The Appellant has been able to produce no evidence from those organisations because he never worked for those organisations as an interpreter."
5. It is contended that herein the judge was either speculating or relying on evidence of his own. I reject this contention. In the asylum interview the appellant was asked if he would get proof of working for UNICEF and after having been supplied with the relevant addresses he replied "OK". Yet the only efforts he made to follow this up were recorded in his witness statement at paragraph 26 as comprising one attempt to call the London telephone address given by the interviewer during which he avers he was told "they were not able to give me any information about who to call in Somalia". There is nothing to suggest he wrote to the address in Somalia provided to him or that his legal representatives took the matter up with the London office. I consider that in stating that organisations like UNICEF

would keep accurate records the judge was properly relying on the background evidence cited by the respondent in the refusal letter at paragraph 31. In the nature of a claim to have worked for not one but three internationally renowned agencies, the appellant could reasonably be expected to have obtained and provided proof that he worked for one or more of them.

6. Despite Mr Brown's valiant efforts to persuade me otherwise, I am also against him on ground (2). Mr Brown takes aim at paragraph 61:

"61. I also do not believe that the Appellant is a member of the Ashraf minority clan. The evidence he gave in relation to the customs and traditions of the minority clan he claimed to be a member of was again vague and lacking in detail. Clan membership in Somalia is a significant aspect of one's life but if the Appellant had been a member of the Ashraf minority clan he would be well aware of the customs and traditions he had been brought up amongst."

7. Mr Brown says this is too cursory and does not adequately reflect the fact that the appellant answered quite a few questions relating to his claimed membership of the Ashraf clan and the respondent only took exception to two of his answers. There are several difficulties with his argument. First, the appellant's grounds cited (and his witness statement at paragraph 33 averred) that he answered all the questions correctly and the only response he made to the two particular concerns with his answers pinpointed by the respondent at paragraph 32 simply failed to address the respondent's concern. Second, even though represented at the hearing the appellant did not seek to rebut the concerns identified by the respondent or to seek to explain why he had given the answers he did on these two matters. Third, the two questions (out of fourteen) the appellant was said to have answered incorrectly were highly material to the state of his knowledge about the customs and traditions of his tribe in that they related to who was the head of his tribe and where members of his tribe were based. I would add that the judge's view that the appellant's evidence was also vague cannot be said to be an unreasonable analysis of the answers the appellant gave, for example, to questions 90, 94 and 95 - 100.
8. The appellant's third ground is stated in the alternative ("matters of credibility aside"). However, even if the grounds are correct to say that the background evidence before the judge contradicted his view that the appellant could safely travel back from Mogadishu to his home area of Jowhar, the judge found that in any event the appellant could live in Mogadishu: see paragraphs 62 and 65. It is true that somewhat confusingly the judge states at paragraph 63 that the guidance given by the Upper Tribunal in **MOJ and others** is "not pertinent". However, I see no material error arising therefrom since on the basis that the appellant had not given a credible account and that the judge found he has family members at least in his home area (see paragraph 62), the appellant cannot be taken to lack family support in his own country. Further and in

any event he speaks English and Somali and Arabic and had attended a private school in 2015 for an intensive English language course. His stay in the UK will have improved his English and hence at the date of the hearing before the judge there was no evidential basis for doubting he would have good prospects of employment in Mogadishu.

9. For the above reasons I conclude that the judge did not materially err in law and that his decision to dismiss the appeal must stand.

No anonymity direction is made.

Signed

Date: 26 October 2018

A handwritten signature in black ink that reads "H H Storey". The letters are written in a cursive, slightly slanted style.

Dr H H Storey
Judge of the Upper Tribunal