



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

Appeal Number: PA/08061/2016

**THE IMMIGRATION ACTS**

**Heard at: Birmingham Civil Justice  
Centre  
On: 18<sup>th</sup> February 2019**

**Decision and Reasons  
Promulgated  
22 February 2019**

**Before**

**UPPER TRIBUNAL JUDGE BRUCE**

**Between**

**MAA  
(anonymity direction made)**

Appellant

**and**

**Secretary of State for the Home Department**

Respondent

**For the Appellant: Mr Bedford, Counsel instructed by Sultan Lloyd  
Solicitors**

**For the Respondent: Mrs Aboni, Senior Home Office Presenting Officer**

**DECISION AND REASONS**

1. The Appellant is a national of Somalia born in 1999. On the 2<sup>nd</sup> March 2017 the First-tier Tribunal (Judge Juss) dismissed his protection appeal. The First-tier Tribunal and the Upper Tribunal successively refused permission to appeal against that decision. By its order dated the 12<sup>th</sup> September 2018 the High Court (HH Judge Wall QC) quashed the decision to refuse permission, pursuant to the 'unless' order made by HHJ Bird dated the 14<sup>th</sup> March 2018. Judge Bird had granted permission finding the grounds as argued in the *Cart* judicial review to

be arguable; in particular the Court considered it arguable that both First-tier Tribunal and Upper Tribunal had erred in failing to treat the Appellant, still only 17 at the date of his appeal hearing, as a vulnerable witness per the practice directions and presidential guidance note. Reliance had been placed upon the decision of the Court of Appeal in AM (Afghanistan) v Secretary of State for the Home Department [2017] EWCA Civ 1123.

2. Before me the Respondent accepted that if the High Court regarded the decisions below it to have been vitiated for AM (Afghanistan) failings, I should proceed on the basis that the alleged error of law has been made out. For the avoidance of doubt I find that another of the Appellant's grounds was also made out, namely that the First-tier Tribunal determination contains no finding on the material issue of which clan he might be from.
3. The parties and Tribunal are in agreement that this appeal must be reheard *de novo*, and that the most appropriate forum for that would be in the First-tier Tribunal. I therefore set the decision of the First-tier Tribunal aside and so order.

### **Decisions**

4. The determination of the First-tier Tribunal contains material errors of law and it is set aside. The decision in the appeal is to be remade following de novo hearing in the First-tier Tribunal.
5. Having regard to the fact that this is a protection claim I am prepared to make the following direction for anonymity, pursuant to Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 and the Presidential Guidance Note No 1 of 2013: Anonymity Orders.

“Unless and until a tribunal or court directs otherwise, the Appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify him or any member of his family. This direction applies both to the Appellant and to the Respondent. Failure to comply with this direction could lead to contempt of court proceedings”.

Upper Tribunal Judge  
Bruce

Dated 18<sup>th</sup> February 2019