



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

RP/00022/2019

THE IMMIGRATION ACTS

Heard at Glasgow
On 17 October 2019

Decision & Reasons Promulgated
On 23 October 2019

Before

UT JUDGE MACLEMAN

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

ABDUL [W]

Respondent

For the Appellant: Mr A Govan, Senior Home Office Presenting Officer
For the Respondent: Mrs F Farrell, of Peter G Farrell, Solicitors

DETERMINATION AND REASONS

1. Parties are as above, but the rest of this decision refers to them as they were in the FtT.
2. The respondent's decision dated 20 February 2019 sets out the appellant's immigration and criminal history; finds that he has failed to rebut the presumption under section 72 of the 2002 Act that he has been convicted of a particularly serious crime, and that his continued presence in the UK constitutes a danger to the community; certifies his case under section 82(1); revokes his refugee status; finds that he can be returned to

Somalia, consistently with country guidance; and refuses his protection and human rights claim.

3. The appellant appealed to the FtT. In a decision promulgated on 24 June 2019 FtT Judge Agnew concluded at [31] that the appellant had rebutted the presumption that his asylum status should be ceased, and that he remained eligible for refugee status.
4. The SSHD applied to the FtT for permission to appeal to the UT. FtT Judge O'Garro refused permission on 17 July 2019, on the view that the decision was in line with the recent case of *A M A* [2019] UKUT 00011. The SSHD sought permission from the UT, relying on the previous grounds and further contending that the correct approach was to be found in the even more recent case of *M S* [2019] EWCA Civ 1345. UT Judge Kekic granted permission on 5 August 2019, on the view that arguably the judge erred in failing to comply with country guidance in *M O J* [2014] UKUT 00442.
5. Mr Govan confirmed that the appellants rebuttal of the presumption under section 72 is not in issue, and submitted further to the grounds, founding in particular on *M O J* and on *M S*. He said that the situation has changed since the appellant was recognised as a refugee in 2003, and that members of the minority to which he belongs may now return in adequate safety to Mogadishu.
6. That may be so. However, the grounds miss the point of the decision, which did not turn on any finding on the current safety of minorities in Mogadishu. The reasons for allowing the appeal appear at [27 - 30]. The judge founded upon the respondent's policy, in line with UNHCR guidelines, that compelling reasons not to revoke refugee status include circumstances such as those to which the appellant had been subject, as accepted by the respondent. She found that exception sufficient to establish the appellant's case. Mr Govan was unable to point to anything in the grounds which goes to that analysis.
7. The grounds do not assert that the essential conclusion of the FtT involved the making of any error on a point of law, so its decision shall stand.
8. No anonymity direction has been requested or made.



17 October 2019
UT Judge Macleman