



**IN THE UPPER TRIBUNAL**  
**IMMIGRATION AND ASYLUM CHAMBER**

**Case No: UI-2024-001759**  
**First-tier Tribunal Nos:**  
**HU/53598/2022**  
**LH/01198/2023**

**THE IMMIGRATION ACTS**

**Decision & Reasons Issued:**  
**On the 17 July 2024**

**Before**

**UPPER TRIBUNAL JUDGE RIMINGTON**

**Between**

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

Appellant

**and**

**AMIN BASHIR GEELE**  
**(NO ANONYMITY ORDER MADE)**

Respondent

**Representation:**

For the Appellant: Mr K Ojo, Home Office Presenting Officer

For the Respondent: Mr D Furner, Solicitor, instructed by Birnberg Peirce Solicitors

**Heard at Field House on 11<sup>th</sup> June 2024**

**DECISION AND REASONS**

1. The application for permission to appeal was made by the Secretary of State but nonetheless I shall refer to the parties as they were described in the First-tier Tribunal.
2. The Secretary of State appeals against the decision of the First-tier Tribunal, Judge Graves (the judge) who allowed Mr Geele's appeal against a decision dated 30<sup>th</sup> May 2022 to refuse the appellant's human rights claim following a decision to deport him in accordance with Section 32(5) of the UK Borders Act 2007.
3. The application for permission to appeal set out that the appellant, a Somalian national born on 19<sup>th</sup> June 1988, arrived in the UK accompanying his mother and brother in August 1999 and his mother applied for asylum with her sons as dependants. On 24<sup>th</sup> April 2000 his mother's asylum claim was refused but she was granted exceptional leave to remain and the appellant was granted leave in line with his mother until 9<sup>th</sup> July 2004. On 21<sup>st</sup> May 2004 his mother was given

indefinite leave to remain with the appellant as her dependant granted on 2<sup>nd</sup> February 2005.

4. An application for naturalisation for the appellant was refused on 3<sup>rd</sup> November 2005. On 11<sup>th</sup> September 2009 the appellant was notified of his liability to deportation on conducive grounds, and on 14<sup>th</sup> December 2009 was served with a notice of a decision to make a deportation order.
5. On 17<sup>th</sup> December 2009 the appellant lodged an appeal which was dismissed on 8<sup>th</sup> February 2010 and he became appeal rights exhausted in July 2010. He received a signed deportation order on 9<sup>th</sup> September 2010.
6. Further representations resulted in the removal directions set for November 2010 to be cancelled. This decision dated 18<sup>th</sup> November 2010 was certified therefore attracting an out of country right of appeal.
7. However, on 28<sup>th</sup> September 2012 and 3<sup>rd</sup> July 2015 further submissions were submitted on human rights grounds requesting the revocation of the deportation order which were refused on 4<sup>th</sup> November 2015. On 19<sup>th</sup> November 2015 the appellant lodged an appeal which was allowed by First-tier Tribunal Judge Nightingale on 20<sup>th</sup> June 2017 on Article 8 grounds only (the earlier decision).
8. This was subsequently found to have no error by the Upper Tribunal and a grant of discretionary leave was granted on 19<sup>th</sup> September 2018 until 20<sup>th</sup> June 2021.
9. The appellant has accrued nineteen convictions for 33 offences between 4<sup>th</sup> June 2004 and 9<sup>th</sup> September 2019, some of which postdate the previous hearing before Judge Nightingale and these included three sexual offences, two offences against property, one non-recordable offence, four public disorder offences, thirteen offences in relation to police, courts and prisons, eight drug offences and one firearms/shotguns/offensive weapons offence.
10. On 9<sup>th</sup> September 2019 at Wood Green Crown Court the appellant was convicted of a breach of a Sexual Harm Prevention Order (SHPO) and subjected to twelve months' imprisonment.
11. On 18<sup>th</sup> May 2020 the appellant's solicitors submitted a human rights claim on his behalf which was refused on 30<sup>th</sup> May 2022 (the subject of the current appeal).
12. At [39] to [42] of the decision under appeal the judge found there was no evidence to depart from the previous findings that the appellant was a foreign criminal and a persistent offender and these findings were not challenged.

### **Grounds for Permission to Appeal**

13. The one ground of appeal was that the judge failed to give reasons or any adequate reasons for the findings on material matters, that is in relation to the appellant's private life and Exception 1 of Section 117C (4) of the Nationality Immigration and Asylum Act 2002.
14. The judge clarified at [19] that:

*“the SHPO was not granted as a consequence of any conviction but rather as a stand alone application, arising out of police concerns over the appellants behaviour and the risk he posed to women in the community. The order prohibited him from approaching or communicating with any female in public”.*

15. Against the background of the appellants further offending the respondent submitted the judge had provided inadequate reasons for finding the appellant was socially and culturally integrated at [48]. Aside from the appellants further offending the judge had afforded positive weight to the appellants “contact with probation and medical professionals, and with his community”. However the judge had not specified which parts of the community the appellant has claimed to be integrated in or what evidence he had considered to reach this finding. Further, in affording weight to the contact the appellant claimed to have with medical professionals the judge failed to note the overwhelming evidence that the appellant repeatedly failed to engage with persons in positions of authority including those working in his best interests such as his representatives and the author of the psychiatric report (Dr Bell) and his own healthcare team.
16. It was submitted that the fact the sentencing judge found a twelve month custodial sentence was appropriate was a strong indication of the potential risk to the public particularly females posed by the appellant. It was submitted the judge failed to weigh this accordingly in assessing the level of social and cultural integration.
17. It was submitted that the appellants continued presence in the UK in itself should be afforded less weight and the judge had minimised the impact of the latest serious offending and focused solely on the limited factors which were considered positive. It was submitted there was little weight in finding the appellant continued to be socially and culturally integrated due to his “contact with probation and medical professionals, and with his community”. These are neutral factors in the light of the fact that the threat of deportation had no effect.
18. The respondent referenced **OH (Serbia) v Secretary of State for the Home Department [2008] EWCA Civ 694.**
19. Apart from acknowledging that the deportation of foreign criminals is in the public interest there was a complete absence of further consideration of the public interest and no consideration of public policy and no evidence of rehabilitation. The judges findings were considered contradictory and the judge found that the appellants offending was extensive and troubling reading and the appellant did not have a “prolonged period of good behaviour”.
20. The respondent submitted in the light of further offending and lack of further independent evidence of integration the appellant could not be considered to be socially and culturally integrated and could not satisfy the second limb of the test at Section 117C(4).

## **Conclusions**

21. At the hearing before me I raised the point with Mr Ojo that the Secretary of State had not appealed on the basis of Article 3 and the challenge was confined to Article 8 only. Mr Ojo accepted that that was indeed the case and that the

application for permission had been so restricted. There was no application to amend the grounds.

22. Although Mr Ojo valiantly attempted to submit that the question of very compelling circumstances may be at large I explained that as Article 3 had not been challenged and this remained standing, this would in itself constitute very compelling circumstances and very significant obstacles to the appellant's return to Somalia.
23. Mr Furner pointed out that a substantial part of the determination related to findings which were entirely sustainable on Article 3. Grounds.
24. As set out in **SC (Jamaica) v Secretary of State for the Home Department [2022] UKSC 15** at [93] it is accepted that the standard of reasonableness or undue harshness on expecting an individual to internally relocate did not import a value judgment of what was "due" to the person and that the public interest in deporting foreign criminals cannot render internal relocation reasonable or not unduly harsh if it was.
25. Albeit that a person's criminality might shed light on their robustness, their strength of character or their ability to plan or interact with others and develop relationships which might be relevant to reasonableness in a holistic assessment, none of that was contended in the actual written grounds of appeal and as such I find there was no material error and the decision of the First-tier Tribunal shall stand.
26. In relation to Article 3 the issues on integration per se do not have traction, Article 8 is the qualified right, and as the appeal had been allowed on human rights grounds, Article 3, which had not been challenged, the issue of whether the appellant was socially and culturally integrated into the UK was not material. If the appeal is allowed on Article 3 grounds there will be very compelling circumstances.

### **Notice of decision**

27. The decision of the FtT is not impugned by material error of law and the decision shall stand.

**Helen Rimington**

Judge of the Upper Tribunal  
Immigration and Asylum Chamber

**15<sup>th</sup> July 2024**