Upper Tribunal
(Immigration and Asylum Chamber) **Appeal Number: PA/00100/2020 (V)**

THE IMMIGRATION ACTS

Heard at Cardiff Civil Justice Centre	**Decision & Reasons Promulgated**
Working Remotely by Skype for Business	
On 25 March 2021	**On 12 April 2021**

Before

UPPER TRIBUNAL JUDGE GRUBB

Between

DAA
(ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:
For the Appellant: Ms N Quadi instructed by Migrant Legal Project (Cardiff)
For the Respondent: Mr A McVeety, Senior Home Office Presenting Officer

DECISION AND REASONS

1. Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 (SI 2008/2698) I make an anonymity order. Unless the Upper Tribunal or court directs otherwise, no report of these proceedings shall directly or indirectly identify the appellant. This direction applies to both the appellant and to the respondent and a failure to comply with this direction could lead to Contempt of Court proceedings.

Introduction

2. The appellant is a citizen of Somalia who comes from Mogadishu. He was born in 1987. He claims to have left Somalia on 9 May 2005 before travelling to, and living or spending time in, Italy, Holland, France and Germany. On 12 September 2017, the appellant claims that he arrived in the United Kingdom clandestinely by lorry.

3. The appellant claimed asylum on 15 September 2017. The basis of his claim was that he feared Al-Shabab who, in particular, had enlisted him and trained him before he escaped from a training camp in 2005.

4. On 18 December 2019, the Secretary of State refused the appellant's claims for asylum, humanitarian protection and on human rights grounds.

The Appeal

5. The appellant appealed to the First-tier Tribunal. In a determination sent on 23 March 2020, Judge G Solly dismissed the appellant's appeal on all grounds.

6. First, although the judge accepted the appellant's account of having been trained by, and escaped from Al-Shabab, the judge found that the appellant would not now be at risk from Al-Shabab in Mogadishu.

7. Secondly, the judge found that the appellant had not established an Art 15(c) risk in Mogadishu.

8. Finally, applying MOJ & Ors (Return to Mogadishu) Somalia CG [2014] UKUT 442 (IAC), the judge found that the appellant would not be destitute on return to Mogadishu as he would have financial support by virtue of remittances from family in the UK, Norway and the USA and support from family in Mogadishu (where he had an uncle and brother) who could provide him with accommodation at least in the short term before he took advantage of the economic boom in Mogadishu and obtained work for himself.

The Appeal to the Upper Tribunal

9. The appellant sought permission to appeal to the Upper Tribunal on three grounds.

10. Ground 1 challenged the judge's adverse finding, in particular her conclusion on the appellant's credibility, and her rejection of his claim that he would be destitute on return to Mogadishu. Ground 2 related to his claim based on being a minority clan member. Ground 3 challenged the adverse finding in relation to Art 15(c).

11. Initially, the appellant was refused permission by the First-tier Tribunal. However, on 16 July 2020 the Upper Tribunal (UTJ Blundell) granted the appellant permission limited to Ground 1. Permission was refused on Grounds 2 and 3.

12. Subsequently, in response to directions issued by the UT, the appellant made further submissions dated 23 October 2020 seeking an oral hearing. The respondent filed a rule 24 notice dated 28 October 2020 seeking to uphold the judge's decision.

13. On 2 December 2020, UTJ Mandalia directed a remote, oral hearing by Skype for Business in order to decide the error of law issue.

14. The appeal was listed before me on 25 March 2021 at the Cardiff Civil Justice Centre working remotely. Ms Quadi, who represented the appellant, and Mr McVeety, who represented the Secretary of State, joined the hearing remotely by Skype for Business.

The Submissions

15. Permission to appeal was only granted on Ground 1. That ground challenges the judge's adverse credibility finding, in particular the judge's rejection of the appellant's claim that if returned to Mogadishu he would be forced to live in circumstances falling below "acceptable humanitarian standards" because he would have no accommodation or financial support from his relatives abroad and would be forced to live in an IDP camp.

16. Judge Solly did not accept that would be the case. She rejected the appellant's evidence in that regard and also written evidence provided by the appellant's brothers in the UK ("Y") and in Norway ("L") and a cousin in the USA that they would not be able to provide financial support despite it having been stated in a visa application in 2012 made by the appellant that all three had provided the appellant with financial support. The judge also concluded that the appellant had a brother and uncle in Mogadishu who could provide accommodation at least until the appellant obtained work in Mogadishu which, the judge found, the appellant would be capable of doing. In reaching those findings, the judge applied paras [407(h)] and [408] of MOJ & Ors which set out factors which the UT stated were relevant in deciding whether a person on return to Mogadishu would be living in circumstances "falling below that which is acceptable in humanitarian protection terms".

17. Ground 1, which was developed by Ms Quadi in her oral submissions, challenges the judge's findings on a number of points.

18. First, in finding that the appellant's brother in the UK (Y) would continue to provide financial support, the judge failed to have regard to the fact that this had been said in a visa application in 2012 and that his brother's circumstances had changed significantly since then. In particular, his brother now had five children, was separated from his wife and had lost his job.

19. Secondly, the judge had found, based upon the appellant's evidence, that he was born in 1987 (rather than 1991 which had been his date of birth given when dealing with other EU Member States' authorities) and it was unclear how this had led the judge to reject the plausibility of the appellant's account.

20. Thirdly, the judge, in finding that the appellant would be in a position to work, had given no clear reason for that finding, in particular she had been wrong to state that the appellant had said that he had never worked during his lifetime.

21. Fourthly, the judge had failed to take into account the appellant's evidence why it was that he had not pursued, having initially made, a claim for asylum in Italy. The judge had been wrong simply to focus on the appellant saying that it was "cold in Italy" when he had explained the difficulties he had faced living temporarily with a Somali family.

22. Finally, the judge had failed properly to consider the documentary evidence submitted, in particular the evidence of Y, upon which the judge placed no weight, wrongly stating that "none of the family members who have provided letters before me have provided any formal ID". Ms Quadi pointed out that a photocopy of Y's passport was at Annex E of the respondent's bundle.

23. In response, Mr McVeety submitted that, with the exception of it being factually inaccurate that no ID had been provided, at least by Y, the judge's decision was entirely correct. As regards the remittances from abroad, the judge had inconsistent evidence which was set out at paras 40–46 of the determination and she was entitled to conclude that the evidence established that there had previously been remittances from the appellant's family and it was properly open to the judge to find that those remittances could continue. In any event, Mr McVeety submitted that, as regards the written evidence from the appellant's family, given that none attended the hearing the judge was entitled to treat their evidence with caution.

24. As regards the appellant's claim in Italy, Mr McVeety submitted that it was open to the judge to take into account that the appellant had not pursued his claim in Italy (or indeed in a number of other EU countries) and to apply s.8 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 as that conduct was potentially damaging of the appellant's credibility.

25. Applying MOJ & Ors, Mr McVeety submitted that the judge was entitled to find that the appellant would have short term financial support from his family abroad; he would have family in Mogadishu to support him and he would be able to take advantage of the economic boom and obtain work. As a consequence, this not being a case where internal relocation arose, the judge was entitled to find that the appellant had not established that his circumstances in return would breach Art 3 of the ECHR.

Discussion

26. In reaching her decision, the judge applied paras [407(h)] and [408] of MOJ & Ors which are in the following terms:

> "407.
>
> …..

h. If it is accepted that a person facing a return to Mogadishu after a period of absence has no nuclear family or close relatives in the city to assist him in re-establishing himself on return, there will need to be a careful assessment of all of the circumstances. These considerations will include, but are not limited to:

(i) circumstances in Mogadishu before departure;

(ii) length of absence from Mogadishu;

(iii) family or clan associations to call upon in Mogadishu;

(iv) access to financial resources;

(v) prospects of securing a livelihood, whether that be employment or self employment;

(vi) availability of remittances from abroad;

(vii) means of support during the time spent in the United Kingdom;

(viii) why his ability to fund the journey to the West no longer enables an appellant to secure financial support on return.

Put another way, it will be for the person facing return to Mogadishu to explain why he would not be able to access the economic opportunities that have been produced by the "economic boom", especially as there is evidence to the effect that returnees are taking jobs at the expense of those who have never been away.

408. It will, therefore, only be those with no clan or family support who will not be in receipt of remittances from abroad and who have no real prospect of securing access to a livelihood on return who will face the prospect of living in circumstances falling below that which is acceptable in humanitarian protection terms."

27. It was accepted before me that the appellant was not seeking to argue that internal relocation to Mogadishu was unduly harsh or unreasonable. This is because the appellant comes from Mogadishu and therefore that is his home area. The factors set out in paras [407(h)] and [408] are directed principally to the issue of internal relocation. They do not, in themselves, establish a claim under Art 3 of the ECHR. The Court of Appeal made that plain in SSHD v Said [2016] EWCA Civ 442 (Christopher Clarke, Sharp and Burnett LJJ). Burnett LJ (as he then was) said this (at [26]-[28]):

"26. Paragraph 407(a) to (e) [of *MOJ &Ors*] are directed to the issue that arises under article 15(c) of the Qualification Directive. Sub-paragraphs (f) and (g) establish the role of clan membership in today's Mogadishu, and the current absence of risk from belonging to a minority clan. Sub-paragraph (h) and paragraph 408 are concerned, in broad terms, with the ability of a returning Somali national to support himself. The conclusion at the end of paragraph 408 raises the possibility of a person's circumstances felling below what "is acceptable in humanitarian protection terms." It is, with respect, unclear whether that is a reference back to the definition of "humanitarian protection" arising from article 15 of the Qualification Directive. These factors do not go to inform any question under article

15(c). Nor does it chime with article 15(b), which draws on the language of article 3 of the Convention, because the fact that a person might be returned to very deprived living conditions, could not (save in extreme cases) lead to a conclusion that removal would violate article 3.

27. The Luxembourg Court considered article 15 of the Qualification Directive in *Elgafaji v Staatssecretaris van Justitie* [2009] 1 WLR 2100 and in particular whether article 15(c) provided protection beyond that afforded by article 3 of the Convention. The answer was yes, but in passing it confirmed that article 15(b) was a restatement of article 3. At para [28] it said:

> "In that regard, while the fundamental right guaranteed under Article 3 of the ECHR forms part of the general principles of Community law, observance of which is ensured by the Court, and while the case-law of the European Court of Human Rights is taken into consideration in interpreting the scope of that right in the Community legal order, it is, however, Article 15(b) of the Directive which corresponds, in essence, to Article 3 of the ECHR. By contrast, Article 15(c) of the Directive is a provision, the content of which is different from that of Article 3 of the ECHR, and the interpretation of which must, therefore, be carried out independently, although with due regard for fundamental rights, as they are guaranteed under the ECHR."

28. In view of the reference in the paragraph immediately preceding para 407 to the UNHCR evidence, the factors in paras 407(h) and 408 are likely to have been introduced in connection with internal flight or internal relocation arguments, which was a factor identified in para 1 setting out the scope of the issues before UTIAC. Whilst they may have some relevance in a search for whether a removal to Somalia would give rise to a violation of article 3 of the Convention, they cannot be understood as a surrogate for an examination of the circumstances to determine whether such a breach would occur. I am unable to accept that if a Somali national were able to bring himself within the rubric of para 408, he would have established that his removal to Somalia would breach article 3 of the Convention. Such an approach would be inconsistent with the domestic and Convention jurisprudence which at para 34 UTIAC expressly understood itself to be following."

28. At [31], Burnett LJ observed that the issue of Art 3 was not resolved simply by asking whether the individual would be required to live in an IDP camp on return. Approving what was said by the UT at para [422], each case must be decided after a careful assessment of the individual's circumstances and having regard to the Strasbourg Court's jurisprudence on return to impoverished conditions:

> "I entirely accept that some of the observations made in the course of the discussion of IDP camps may be taken to suggest that if a returning Somali national can show that he is likely to end up having to establish himself in an IDP camp, that would be sufficient to engage the protection of article 3. Yet such a stark proposition of cause and effect would be inconsistent with the article 3 jurisprudence of the Strasbourg Court and binding authority of the domestic courts. In my judgment the position is accurately stated in para 422. That draws a

> proper distinction between humanitarian protection and article 3 and recognises that the individual circumstances of the person concerned must be considered. An appeal to article 3 which suggests that the person concerned would face impoverished conditions of living on removal to Somalia should, as the Strasbourg Court indicated in *Sufi and Elmi* at para 292, be viewed by reference to the test in the *N case.* Impoverished conditions which were the direct result of violent activities may be viewed differently as would cases where the risk suggested is of direct violence itself."

29. Subsequently, in SSHD v MS (Somalia) [2019] EWCA Civ 1345 (Underhill, Hamblen and Newey LJJ), the Court of Appeal, applying what was said in Said, concluded that the UT had applied the wrong legal test in determining whether there was a breach of Art 3 of the ECHR by relying upon paras [407(h)] and [408] of MOJ & Ors (see [76] per Hamblen LJ).

30. In this appeal, it was accepted in the course of submissions that the judge's decision, applying MOJ & Ors, could only be explained on the basis of determining the issue of whether a breach of Art 3 of the ECHR was established. Neither representative referred to the decisions in Said and MS. Had the judge found in the appellant's favour, applying MOJ & Ors, it would be very difficult not to reach the same conclusion as reached by the Court of Appeal in MS that, without reference to the high threshold to establish a breach of Art 3, merely establishing some or all of the factors in para [407(h)] would result in an application of the wrong legal test (see, e.g. SB (refugee revocation; IDP camps) Somalia [2019] UKUT 358 (IAC) especially at [49], and [55]-[58]). Of course, if the judge's factual findings are sustainable then, even if the higher test demanded by Art 3 and recognised in Said had not been applied, that would not be material as the judge's findings resulted in an adverse decision even applying, without the benefit of what was said in Said, paras [407(h)] and [408] of MOJ & Ors.

31. In my judgment, the appellant has not established that the judge erred in law in reaching her adverse factual findings.

32. First, as drafted, Ground 1 criticises the judge in reaching her adverse decision that the appellant's brother in the UK (in particular Y) would be able to provide support to him on return to Mogadishu because the judge failed to take into account the evidence (including from Y himself) that his position had changed since the 2012 visa application. As I pointed out to Ms Quadi in the course of her submissions, the judge was well aware of that evidence which she set out at para 40 of her determination. There, the judge said this:

> "40. He has a brother in the UK called [Y] (A E25) who has signed a letter this is undated. He says he has no job and is not in a position to help his brother. It was this brother he was going to meet if his visa was granted in 2012. The visa application said he gave the appellant 200 a month. The appellant identifies him then as being a British citizen. In oral evidence the appellant gave conflicting evidence about whether this brother had given him money – initially in cross-examination he said not, then he said this brother helped him financially when he was travelling in Europe, in Syria and when he

> came to the UK he allowed him to stay and eat meals with him but refused to give him any cash for pocket money and told him to go to NASS. It was put to him that [he] could get support from this brother given he had supported him according to the appellant's visa application. The appellant said he would not provide support in Somalia or now because he is separating from his wife and five children who is no longer in the country. He does not fund the brother and uncle currently in Somalia".

33. It cannot be said, therefore, that the judge was unaware of what the appellant's case was on the difference between 2012 and now as regards any financial support from Y. As drafted, there is no merit in the contention that the judge failed to take this evidence into account. She simply did not accept it (see below).

34. Further, at paras 41–45, the judge set out the evidence from the appellant's other relatives as follows:

> "41. He has a brother in Norway, [L], who has provided a letter at A E19 dated 4 March 2020. He says he is a Norwegian citizen with a permanent job, a wife and children. He says he cannot financially afford to support his brother and he explains that Somalia is not safe. The visa application said he gave the appellant 200 a month. In oral evidence the appellant said this brother would not support him and has never supported him or anyone in Somalia.
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> 42. He produces an undated letter from his brother [S] (A E21) who is in Mogadishu where he works as a port cleaner. [S] says his salary is not enough for his wife and four children, one of whom is disabled. He says he always receives threat messages from Al-Shabab and once survived an assassination. In oral evidence the appellant said this brother wanted to leave for Kenya and for the appellant to support him.
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> 43. He has an uncle in Mogadishu and told me that he was being cared for by another family and was elderly. They helped the uncle because of his age and would not be able to help him because he was young and fit. I have no direct evidence from this uncle and the information is based on the appellant's account.
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> 44. There is a cousin in the USA. The visa application said he gave the appellant 100 a month however his evidence before me was of no support and he lost contact with this cousin years ago.
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> 45. When asked in cross-examination about the entries made for financial support in the visa application the appellant said that if he had had this amount of money, he would have been able to stay in Italy. The appellant confirmed to me that in 2012 he was able to speak and write a bit of English, he understood the form in terms of his name and date of birth but did not understand the financial details on the form".

35. Having set out that evidence, at para 46 the judge noted:

> "46. None of the family members who have provided letters before me have provided any formal ID. The appellant has not explained when he received these documents or produced envelopes saying where they came from".

36. The judge then went on to cite Tanveer Ahmed and TK (Burundi), and stated that assessing the appellant's credibility it was relevant that there was a "lack of an explanation or documents supporting the origin of the family's statements and ID".

37. In fact, as Mr McVeety acknowledged, there is a photocopy, which is not very easy to read given its quality, that appears to relate to Y showing him to be a British citizen.

38. At para 74 the judge said this:

> "74. I therefore turn to the evidence of his siblings. Given the lack of ID, lack of documentation to explain how the appellant came by the handwritten letters, the absence of dates and my concern about the appellant's credibility I give no weight to their evidence".

39. At least as regards Y, the absence of ID was not correct. (There is also a very poor quality photocopy of a document which may be L's passport but it wholly unclear whether it is.) It is not clear whether the photocopy of Y's passport was drawn to the judge's attention and, as I have said, the quality of photocopying makes it very difficult to read. But, that was, in any event, only one of the reasons why the judge considered that she would not give weight to the handwritten letters from the appellant's family. The statements are brief, handwritten notes. None gave evidence before the judge. Of course, apart from Y, the other family members were not in the UK. The appellant said that Y was no longer in the UK but there was no independent evidence of that. I accept Mr McVeety's submission that, given the nature of the handwritten evidence, and that it was not (nor in some cases could it) be tested in cross-examination, the judge was reasonably and rationally entitled to give it little or no credence as supporting the appellant's claim that none of his family would provide any financial support. As the judge pointed out in relation to the 2012 visa application, the appellant's evidence concerning this was "conflicting". Neither brief written statement by Y or L (at E19 and E25 of the appellant's bundle) suggested that they had not previously provided the appellant with support as the 2012 visa application stated. There was also, in relation to that visa application, evidence that the appellant's relative in the USA had also provided support. The judge was entitled not to accept the appellant's evidence that he did not know what was in the application given his facility (albeit limited) in English at the time. Whether or not the appellant was aware of what was in his 2012 visa application, the fact remained that it was consistent with previous support from his relatives unless what was said was taken to be dishonest and misleading. The judge correctly took into account the conflicting and contradictory evidence in assessing whether she accepted what the appellant now said would be his financial position on return to Mogadishu.

40. Secondly, as regards the point made in Ground 1 about the judge's acceptance of the appellant's evidence before her that he was born in 1987 (see paras 47–49), it is difficult to understand what impact that had upon the judge's factual findings. In particular, it is wholly unclear from para 7 of the grounds why it is said that having accepted the appellant's evidence it is "unclear how and why [the judge] then went on to reject the plausibility of his account, particularly in the absence of any

evidential basis for that finding". The difficulty with this point is that the judge did not reject the plausibility of the appellant's account. As regards his asylum claim, the judge accepted the plausibility of his account but found that, nevertheless, he would not be at risk on return now, time having passed, from Al-Shabab in Mogadishu.

41. It may be that the point relates to what the judge said in para 49 that she did not accept "as plausible that the Italian authorities simply told him he looked younger than having been born in 1987 and gave him a later date of birth". She then went on to say: "Should I not accept him as credible then a plausible reason for him giving a different date of birth in Italy would be to enable him to be then under the age of 18". Whatever the foundation for that conjecture, I do not see any basis for concluding that it had any impact upon the judge's findings that followed thereafter in relation to the appellant's evidence about what, if any, support and accommodation he would have on return to Mogadishu.

42. Thirdly, in relation to the appellant's failure to pursue his claim in Italy and the judge's rejection of his reasoning that he did so because it was "very cold" in Italy (see para 71), Ms Quadi relied upon, in particular, the appellant's witness statement at A1–A2 of the bundle, in which he sets out that he lived with Somalis in a house in Turin, having been released from an underage camp having claimed asylum, where there was no light and it was "very very cold". A slightly longer explanation is given in answer to question 143 of his asylum interview. The fact of the matter is that the appellant passed through, and indeed claimed asylum in, a number of EU countries including Italy, Holland, Germany and France. At para 41 of her determination, having set out the effect of s.8(4) of the 2004 Act of a failure to make (and/or pursue) an asylum claim in a safe, EU country, the judge said this:

> "41. He has claimed asylum in several [EU] countries. The copy paperwork as provided strongly suggest he had a residence permit in Italy from February 2011 to 2014 and then 19 May 2014 to 18 May 2019, (E6) although later in 2014 he was in Germany where he claimed asylum. There is no evidence to suggest the appellant has been granted asylum elsewhere. I find on the evidence that the appellant has not attended his asylum interview in Italy and other countries having generally suggested he is returned to Italy. He does not provide an acceptable answer for not continuing with his Italian asylum claim and in particular his reason that it was cold in Italy is inadequate. Furthermore, a genuine asylum seeker would have pursued these many asylum claims having reached a safe country made rather than moving through Europe without adequate reason as the appellant has done for thirteen years".

43. Section 8, in particular s.8(4), of the 2004 Act applied to the appellant's claim and so resulted in potentially damaging his credibility. His conduct was potentially damaging of his credibility. The judge correctly directed herself in that regard. While she only made reference to the explanation of it being "cold" in Italy as being inadequate, the fact of the matter is that the appellant failed to pursue his asylum claim in a number of safe EU countries. Whilst the judge did not set out the full explanation given by the appellant in his witness statement and in answer to question 143 of his asylum interview, there is no reason to consider that she did not

have the totality of his explanation in mind and regarded it as inadequate, particularly given the number of safe EU countries through which he had passed over an extended period of time and in which he had not pursued his asylum claim to fruition. To the extent, therefore, that the judge took into account as potentially damaging of his credibility his conduct falling within the 2004 Act, I am not persuaded that the judge erred in law in doing so.

44. Fourthly, the final issue raised in the appellant's grounds concerns the judge's statement in para 49 of her determination that she did not find it plausible that he had never worked in his life save for six months in Italy. The grounds contend that this was not the appellant's evidence. He had not said that he had "never worked during his life". The judge also comments that it is "common knowledge" that asylum seekers are able to work in Germany where the appellant lived with his wife and two children. The difficulty with this argument is that it takes the appellant's case that the judge erred in her finding that the appellant would be able to take advantage of the economic boom in Mogadishu nowhere. If it was not the appellant's evidence that he had never worked, apart from the six months which he accepted he worked in Italy, it is impossible to see how the judge can be criticised for concluding that the appellant would reasonably likely be able to work on return to Mogadishu taking advantage of the economic boom recognised in para [408] of MOJ & Ors. The appellant was 31 or 32 years of age at the date of the hearing. The judge noted in para 81 that the appellant was educated at least to primary level and had expressed a willingness to undertake any type of work. Whilst he has been receiving NASS support in the UK, and so far as I can tell has not worked in the UK, it is unclear upon what basis the judge is criticised for concluding that as a fit and well young man, who speaks Somali and would be at 31/32 years old on return to Mogadishu where he has family, would be unable to obtain work albeit, as the judge found, perhaps not initially but during which time he could be supported by his family both in Somalia and abroad.

45. The finding in para 81 was as follows:

> "81. Given his education I consider it likely he will be able to take advantage of the resurgence of the economy in Mogadishu in due course to support himself although he will be reliant on remittances from abroad and support from his family in Mogadishu at least to start".

46. That finding, together with a finding in para 82 that the appellant would be able to obtain financial and other support from Mogadishu and abroad particularly his brother in the UK and family members he is in contact with, were findings, in my judgment, both rationally and reasonably open to the judge on the evidence for the reasons she gave.

47. Those findings, even if the judge had considered the approach set out by the Court of Appeal in Said on the relevance of paras [407(h)] and [408] of MOJ & Ors, could only have led to the conclusion that the appellant's claim for humanitarian protection or under Art 3 of the ECHR must fail.

48. For all these reasons, I reject the points relied upon by Ms Quadi in Ground 1 seeking to challenge the judge's adverse findings. The judge's decision to dismiss the appellant's appeal on all grounds, therefore, stands.

Decision

49. For the above reasons, the decision of the First-tier Tribunal to dismiss the appellant's appeal on all grounds did not involve the making of an error of law. That decision stands.

50. Accordingly, the appellant's appeal to the Upper Tribunal is dismissed.

Signed

Andrew Grubb

Judge of the Upper Tribunal

31 March 2021

TO THE RESPONDENT
FEE AWARD

It follows that Judge Solly's decision not to make a fee award also stands.

Signed

Andrew Grubb

Judge of the Upper Tribunal
31 March 2021