

LSH  
Heard at: Field House

MH (Minority \_ Ignorance of Clan  
Structure) Somalia [2004]  
UKIAT00047

On 11 March 2004

**IMMIGRATION APPEAL TRIBUNAL**

Corrected transcript of decision given at hearing

Signed: 12.03.2004

Issued: 17 March 2004

**Before:**

**Mr J Freeman (vice-president)**

**Mr A Smith**

**Mr H G Jones**

**Between**

**APPELLANT**

**and**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

**RESPONDENT**

**Representation:**

For the appellant: Mr O Ali (bilingual friend of the appellant)

For the respondent: Mr A Hutton, Home Office presenting officer

**DETERMINATION AND REASONS**

This is an appeal by a citizen of Somalia against the decision of an adjudicator, Mr PD Southern, sitting at Hatton Cross on 6 June 2003, in which he dismissed the original appeal on both asylum and human rights grounds. That appeal had been brought on 31 January 2003 through solicitors. However, on 25 March the appellant had himself sent in a reply to directions, in which he explained he no longer had the services of those solicitors.

2. On that basis the first hearing adjudicator on 3 April put the case back for full hearing on 6 June. However on 6 June there was neither any appearance by the appellant himself, nor by anyone on his behalf. The adjudicator noted the history of the case and decided to proceed, giving a full reasoned decision on its merits. On 23 June the decision was sent out. Not until 28 July did the appellant appeal, well out of time, sending with his notice of appeal a typed English letter explaining that he had no solicitor, and another from a body called the UK Somali

Benadir Community Council. This is a community organization, without any official status so far as this country is concerned. Their letter is dated 11 July and reads as follows:

*This is to confirm that the above mentioned applicant is a Somali National of Benadir origin. He belongs to the Ashraf clan. The claim is to be determined on the basis of his original statement forwarded to the Home Office in support of his original application. He is a member of the Benadiri minority group whose application for refugee status has been given consideration by the Home Office. We note that our member is under consideration since his arrival in the United Kingdom. We would therefore urge to make a decision at your earliest opportunity and grant Mr Hussein full refugee status. Your co-operation on this matter is highly appreciated and look forward to a positive response. In the mean time, please do not hesitate to contact our community for any further enquiry about the applicant.*

3. Time for that application was extended and permission granted. That decision was sent out with the notice of hearing for today on 23 September 2003. The chairman who granted permission pointed out that the appellant would be well advised to seek representation, referring to a well known organisation which operates free of charge, whose address could be had from the Tribunal. Nothing further at all was done about that. The appellant said first the organisation was busy; then it had been too late, because of the 14 day limit for filing documents.
4. We do not see why this appellant, who was in touch, he says, with his community's council in this country should not have been able to obtain representation during the nearly six months since permission was granted. The appellant has been able to bring with him a bilingual friend, a Mr Omar Ali, who interpreted with great skill, and to whom we are very grateful. We decided to proceed to deal with the appeal on its merits.
5. This appellant's case depended on his being a member of the Ashraf minority tribe. Ashraf means 'noble' in Arabic. This refers to the claimed descent of the tribe from Hassan and Hussein, immediate descendants of the Prophet himself. Every Ashraf sub-clan either claims descent from Hassan or from Hussein. The appellant was asked about this at questions 1 to 15 of his interview. He claimed descent from Hussein, and said he was a member of the Balaawi sub-clan. However, he was quite unable to give the names of any other sub-clans of the Hussein branch.
6. His explanation for that was that all mention of clans had been discouraged under the régime of Siad Barré, the former President who fell from power in 1991. We fail to understand why if the appellant's father could tell him as he said he had done, no doubt in the privacy of their own home, that they came from the Balaawi sub-clan of the Hussein branch, he should not have been able or willing to tell him anything about the other sub-clans.
7. We know from quite a number of years' joint experience of hearing Somali cases what an important part the clan and sub-clan structure plays in Somali life. We have never heard it suggested before that all this traditional information became completely submerged during the Siad Barré régime. There is no independent evidence to support that, and we do not accept it.

8. We then come to the question of the Community Council. The appellant says he was taken to their headquarters, after the adjudicator hearing, by a Somali friend. The Community Council representative asked him his clan details and to bring a witness to confirm his descent. The Community Council have nothing to say at all about that in their letter. The appellant's explanation for that is that they issue such letters in the standard form only. That may be so but it renders such letters practically valueless as confirmation of his or any other claimant's account.
  
9. The appellant told us that he had witnesses available to confirm his origins, whom he had only got to know since the adjudicator hearing. We do not accept that, during the 5 months during which he was waiting for that hearing, for the last two of which he knew he had no solicitor, and having been a teacher, as he says, in Somalia and living amongst a very large Somali resident community in London, this appellant should not have been able to get such witnesses before the adjudicator if he had tried. We declined to hear them when they were put forward for the first time before us today. There is nothing to show that the adjudicator was clearly wrong in the decision to which he came, and the **appeal is dismissed**.

**John Freeman**