

REFUGEE STATUS APPEALS AUTHORITY
NEW ZEALAND

REFUGEE APPEAL NO 76096

AT AUCKLAND

Before: B A Dingle (Member)
Counsel for the Appellant: M Datt
Appearing for the Department of Labour: No Appearance
Date of Hearing: 19 September 2007
Date of Decision: 28 November 2008

DECISION

[1] The appellant, a female in her mid-twenties, is a national of Somalia. This is her second appeal to this Authority.

[2] The appellant claims to have arrived in New Zealand on 9 December 2004 but her arrival was undocumented and the date and circumstances of her arrival remain unconfirmed by any independent corroborative evidence.

[3] The appellant lodged her first claim for refugee status with the Refugee Status Branch (RSB) of the Department of Labour (DOL) on 17 December 2004. On 28 January 2005, she was interviewed by the RSB and, in a decision dated 31 May 2005, her first claim was declined because no conclusion could be made about her identity. The appellant appealed to this Authority (differently constituted) and that appeal was dismissed on 27 February 2006 on the grounds that her account was not credible. In that decision, the Authority did accept that the appellant is a female Somali national, born in Somalia (*Refugee Appeal No 75635*). No finding as to her identity was made.

[4] The appellant lodged a subsequent claim for refugee status on 22 January 2007. She was interviewed by the RSB on 14 March 2007. This claim was declined by the RSB in a decision dated 29 June 2007. It is from that decision that the appellant has appealed to this Authority.

[5] The appellant claims she has a well-founded fear of being persecuted on return to Somalia because of the cumulative effect of a significant deterioration in country conditions and her circumstances as a young, unaccompanied woman who, on return, will be pregnant (or will have a small baby) and will be accompanied by her young son (born in October 2007). She claims that her lack of familial or any other support in Somalia would expose her to a real risk of serious harm at the hands of rival clan militia, Ethiopian forces based in Somalia, or other violent groups who are able to harm women with impunity. She also fears serious harm in the form of not being able to meet even her most basic living requirements because of the general humanitarian crisis currently present in Somalia which will be exacerbated by her situation as a single, unprotected woman with young dependants.

[6] The relevant issues in this claim are whether the Authority has jurisdiction to hear the second claim, whether the appellant's account is credible and, if so, whether or not she has a well-founded fear of being persecuted on return to Somalia.

JURISDICTION OF THE AUTHORITY TO HEAR THE APPEAL

[7] Because this is the second occasion on which the appellant has appealed to this Authority, the Authority must first determine whether it has jurisdiction to hear the appeal.

[8] Neither a refugee status officer nor the Authority has unlimited jurisdiction to receive and determine a further refugee claim after a first claim has been finally determined. Section 129J(1) of the Immigration Act 1987 ("the Act") is headed "Limitation on subsequent claims for refugee status" and sets out the circumstances in which a refugee status officer may receive and determine a second or subsequent claim for refugee status:

"A refugee status officer may not consider a claim for refugee status by a person who has already had a claim for refugee status finally determined in New Zealand unless the officer is satisfied that, since that determination, **circumstances in the claimant's home country have changed to such an extent that the further claim is based on significantly different grounds to the previous claim.**"
[Emphasis added]

[9] Where the refugee status officer declines the subsequent claim, or finds that there is no jurisdiction to consider the claim on the basis that the statutory criteria are not met, the claimant has a right of appeal to the Authority. Section

129O(1) of the Act provides that:

“A person whose claim or subsequent claim has been declined by a refugee status officer, or whose subsequent claim has been refused to be considered by an officer on the grounds that circumstances in the claimant’s home country have not changed to such an extent that the subsequent claim is based on significantly different grounds to a previous claim, may appeal to the Refugee Status Appeals Authority against the officer’s decision.”

[10] The Authority therefore intends to consider the appellant’s original claim, together with her further claim as presented at the second hearing, with a view to determining whether it has jurisdiction to hear the second appeal. If so, it will then determine whether the appellant is a refugee within the meaning of Article 1A(2) of the Refugee Convention.

THE APPELLANT’S FIRST CLAIM FOR REFUGEE STATUS

[11] In summary, the appellant’s first claim for refugee status was that she would be vulnerable to sexual and other forms of violence as a female member of a powerless minority clan. She made that claim as somebody without any close family members in Somalia who could offer her protection and on the general grounds of her gender.

[12] The appellant claimed to have left her traditional sub-clan group village (Dulbahante sub-clan of the Darod clan) in the north of Somalia accompanied by her father and a group of extended family members while still a young child. They moved to a village in southern Somalia where they lived until approximately 1991. In 1991, when civil war broke out, the appellant’s father was shot by members of the rival Hawiye clan.

[13] Following her father’s death, the appellant accompanied her aunt, AA, and travelled to a refugee camp in the north of Kenya. The appellant lived in that camp with members of her extended family until approximately late 1998. At that time, she met and married a Somali man and, within days of the marriage, accompanied him back to Kismayo city in the south of Somalia. The appellant and her husband went and lived with her husband’s sister. Soon after her arrival there, the appellant realised she was pregnant and, a short time after that, the appellant’s husband left her, never to be heard from again. Although the appellant’s relationship with her sister-in-law was strained, the appellant was permitted to remain living in the sister-in-law’s house for the duration of her pregnancy. The appellant gave birth to a son in mid-1999. Approximately two months after the

birth, the appellant returned with her son to the refugee camp in Kenya. She was reunited with her family there and resumed her life living in the same shelter as AA, who had also recently given birth to a son.

[14] In late 2004, the appellant's relatives raised a substantial sum of money from the sale of gold jewellery, provided this money to the appellant and arranged an agent for her to facilitate her travel out of Kenya. She left her son in the care of AA. The appellant travelled overland to Nairobi and departed from Nairobi airport accompanied by her agent and using a false passport, the nationality of which she does not recall. The appellant and the agent travelled by air to New Zealand, stopping at two ports en route, neither of which the appellant could identify.

[15] The appellant's first claim was based on the grounds that she might be raped or killed if returned to Somalia because her clan would not be able to offer her any protection.

[16] As noted above, the Authority in the appellant's first appeal rejected the appellant's credibility, except to the extent that it accepted that she was a Somalian female who had been born in Somalia.

THE APPELLANT'S SECOND CLAIM FOR REFUGEE STATUS

[17] The appellant maintains the account provided in her first claim as to events prior to her arrival in New Zealand. Additionally, the appellant now claims that her risk of serious harm is exacerbated because she has a young child, is pregnant and the significant deterioration in country conditions since late 2006 puts an unprotected single woman, with no ability to provide herself with the necessities of life, at risk of being persecuted.

[18] The Authority notes that the specific grounds of the appellant's second claim have evolved throughout the processing of her claim. To the RSB, part of her claim was that she would be returning to Somalia with her partner at that time (who she also claimed to the RSB was the father of her son born in New Zealand) who, because of his minority clan affiliation, would put them all at risk of being persecuted.

[19] By the time of the appeal hearing, that relationship had broken down and the appellant claimed that she would be at risk in Somalia because her new partner, and the man who she now claims is the father of her New Zealand-born

son, is also of a minority clan and therefore her son's surname would identify him as a minority clan member.

[20] Since the hearing, the appellant has variously claimed that her son will be accompanying her back to Somalia and, contradictorily, that his father (a New Zealand resident of Somali origin) will not allow him to return there. Notwithstanding the appellant's belated claim that she would take her son with her, the Authority remains doubtful that his father would allow him to leave New Zealand. However, in the absence of certainty regarding whether or not the New Zealand-born son would accompany the appellant on return to Somalia, this decision takes a cautionary approach and considers the predicament of the appellant as if she were to be accompanied by her young son.

Other material submitted in support of the appeal

[21] Ms Uca submitted, under cover of a letter dated 18 September 2007, a supplementary statement of the appellant, memorandum of counsel and a bundle of documents including country information about the general situation in Somalia and information relating to specific clan affiliation and children of mixed ethnicity. She also provided two cases from the United Kingdom which dealt with the determination of refugee status for Somali women.

[22] Ms Uca made brief oral submissions at the beginning of the hearing. Written closing submissions were submitted under cover of a letter on 15 October 2007 and included further country information relating to the situation faced by civilians in Somalia (particularly Mogadishu) with a specific focus on women and children.

[23] In response to a request from the Authority, on 13 February 2008, Ms Uca provided updated information on the personal circumstances and situation for the appellant and her young baby. Further country information and a final memorandum of counsel was also submitted on that date.

[24] On 25 June 2008 Ms Uca advised the Authority by letter that the appellant was in the seventh week of pregnancy and enclosed a medical certificate from C. Hugil, a midwife, to that effect. The certificate notes that the estimated date of birth is 10 February 2009. No other submissions or material were provided to the Authority in that regard. On 1 July 2008 the Authority wrote to Ms Uca requesting an updated summary of the grounds on which the appellant was making her claim

for refugee status because no submissions as to whether the pregnancy was now relied upon as a ground for the claim had been made. The Authority also directed that counsel submit any other material the appellant wished to have considered including submissions regarding any issues relevant in the determination of the appellant's (now amended) claim by 8 July 2008.

[25] On 7 July 2008 the Authority Secretariat received a call from a medical centre in Hamilton reporting that the appellant was extremely stressed and wished to instruct a new lawyer. The appellant was provided with the names of two solicitors in Hamilton and granted an extension to 14 July to provide any further information to the Authority. At 4.59pm on 7 July the appellant, via the medical centre, sent through by facsimile a supplementary statement regarding her case which included the assertion that "I most certainly would be taking my baby/babies back with me not [sic] matter where I go – they are my flesh and blood and we cannot be separated". The cover sheet on the facsimile notes that the statement was dictated by the practice nurse at the medical centre and signed by the appellant.

[26] On 8 July 2008, the Authority received a letter by way of facsimile from Bridge Law, Hamilton, indicating that they were in the process of taking instructions from the appellant but had not yet received the file and would need some time to consider the file. On the same day the Authority received a letter from Dr Spry of Hamilton outlining concerns for the appellant's mental health and urging the Authority to permit her to stay in New Zealand and grant her permanent residence.

[27] On 22 July 2008 the Authority received notice by way of letter from Berman and Burton Lawyers in Auckland that they had taken instructions from the appellant. The Authority responded directing that any further submissions or material be submitted by 5 August 2008. After further correspondence the Authority granted an extension to 22 September 2008. Submissions from counsel (Mr Meyrick and Ms Datt) were duly received on 22 September 2008.

[28] In those submissions, counsel outlines the grounds of appeal as follows:

"Grounds of Appeal

1. The appellant's second pregnancy is directly relevant to the appellant's existing claim to refugee status in that if the Authority does not find in the appellant's favour, then the appellant will be extradited from New Zealand as a "single pregnant woman".

2. The other ground in contention is whether the appellant agrees to leave her other infant child behind. She does not wish to but the child is a New Zealand citizen and has a New Zealand citizen father.
3. That the [a]ppellant's fear of persecution is further exacerbated at the thought of what may happen to her "unborn" child if she ends up in Somalia before February 2009 or what may happen to the child if born to a "single woman" in the atrocious Somalian environment."

[29] None of these submissions as to grounds were traversed in any more detail. It remains unclear whether or not the appellant is intending to return with or without her New Zealand-born son. Nor has counsel provided an explanation of what is meant by the assertion that the appellant's fear of persecution is "further exacerbated at the thought of what may happen to her 'unborn' child if she ends up in Somalia...." Nevertheless, the Authority has considered all of the submissions and other material provided to the fullest extent possible in making this determination.

[30] In summary, the Authority now understands the grounds as asserted by the appellant in her claim for refugee status are:

- (a) that she is a woman of Somali ethnicity and nationality in her mid-twenties;
- (b) that she is of the Darod/Durbahante clan;
- (c) that she would be returning to Somalia as a single woman either pregnant or with a small baby and possibly accompanied by her young son;
- (d) that she has no familial or other connections with anyone living in Somalia except for connections with her clan in the north of Somalia; and
- (e) that the country conditions are such that the appellant would be unable to support herself and her children with the basic necessities of life and nor would they be able to travel to the north of Somalia to seek the protection of her clan.

[31] This decision now turns to consider whether, on the basis of the grounds asserted by the appellant in her second appeal, the Authority has jurisdiction to hear the second claim.

WHETHER THE AUTHORITY HAS JURISDICTION TO CONSIDER THE APPELLANT'S SECOND CLAIM

[32] The Authority considered its statutory jurisdiction to hear and determine second and subsequent refugee claims in *Refugee Appeal No 75139* (18 November 2004). In that decision it was held that, under ss129J(1) and 129O(1), jurisdiction is determined by comparing the previous claim for refugee status asserted by the appellant with the subsequent claim.

[33] In the present case, the appellant's first claim for refugee status was based upon the grounds that she would be vulnerable to suffering sexual and other forms of violence as a female member of a powerless minority clan who returned to Somalia. The appellant's second claim is based upon her situation as a pregnant woman with a young child and the apparent deterioration of country conditions, both in terms of formal governance and the humanitarian situation since 2006 (which are discussed below).

Country information

[34] The country information available describing country conditions in Somalia since 2006 paints a generally bleak picture of a situation which deteriorated through late 2006-early 2007 and which continues, in 2008, to be the cause of huge numbers of internally displaced persons trying to escape intermittent violence, particularly from parts of southern Somalia including Mogadishu.

[35] It is not intended here to provide a comprehensive review of the country information or a detailed account of the situation in different parts of Somalia. For the purposes of this decision, it is sufficient to refer to a recent Human Rights Watch World Report which usefully provides the following overview of events in Somalia between late 2006 and early 2008 and identifies changes in the political and security environment in that time:

“Events of 2007

2007 was a bleak and turbulent year for Somali civilians, particularly in the volatile south-central region of the country, following the December 2006 invasion by Ethiopian forces in support of the Transitional Federal Government (TFG), which ousted the Islamic Courts Union (ICU) from Mogadishu. The TFG was formed in 2004 following extensive negotiations between Somali factions and clans mediated by the Inter-Governmental Authority on Development (IGAD) in Kenya. Before the government was able to impose its authority in Somalia, in 2006 the Islamic Courts emerged as a powerful political force in Mogadishu and surrounding areas, disarming warlords and bringing about unprecedented local stability. Their emergence threatened the existence of the TFG, and their links with Eritrea and Ethiopian opposition groups triggered Ethiopian military intervention.”

Since January 2007, Ethiopian forces deployed in Mogadishu have become increasingly embroiled in a violent counter-insurgency campaign. In one of the world's most ignored human rights and humanitarian crises, residents of Mogadishu have been indiscriminately attacked by all of the warring parties, leaving hundreds dead and more than 500,000 displaced according to UN estimates. Escalating attacks on Ethiopian and TFG forces precipitated a massive Ethiopian bombardment of residential neighborhoods in the capital in March and April 2007 that failed to quell the insurgency, but took a heavy toll on civilians. As part of the crackdown, Ethiopian and TFG forces also harassed and arbitrarily detained civilians. Tens of thousands of people suffered widespread looting, sexual violence, and lack of access to humanitarian relief while fleeing the clashes in Mogadishu, which escalated again in November and show no sign of abating." (Human Rights Watch, *World Report 2008 - Somalia*, 31 January 2008. Online. UNHCR Refworld, available at: <http://www.unhcr.org/refworld/docid/47a87c14c.html> [accessed 29 September 2008])

[36] The situation in Mogadishu and the south of Somalia does not appear to have improved since that report. Islamic insurgents who object to the presence of Ethiopian troops and other peacekeeping forces in Somali have launched attacks against those forces in Mogadishu on an almost daily basis. In November 2007 a new Prime Minister was appointed and in January 2008 the Prime Minister and his cabinet moved to Mogadishu. The new government was initially reported to have made some progress in negotiating with various opposition and insurgent groups to increase security but that progress appears to have stalled. The opposition refuses to negotiate until the Ethiopian and peacekeeping troops withdraw, while the Ethiopians refuse to withdraw until there is some stability in the governance structure of Somalia. (See for example, *AU peacekeepers mired in Somalia*, BBC International News (24 September 2008) accessed online at news.bbc.co.uk).

[37] In the interim little has changed for residents of the south – central region. Opposition groups have continued to attack the forces aligned with the TFG and despite the presence of some AMISOM (African Union Peacekeeping Mission in Somalia) troops, the security situation is unstable and deteriorating. Recent reports suggest that they now control the city of Mogadishu again, except for one small area still within the power of the Government aligned troops. (*Somalian "Ghost City" wracked by war*, BBC International News (6 October 2008) accessed online at news.bbc.co.uk).

Comparison of two claims

[38] Comparing the two claims, it is apparent that they are based upon different grounds. The change of circumstance relied upon are a deterioration in country conditions and the birth of the appellant's child and second New Zealand pregnancy. These are circumstances that have occurred since the determination

of the first claim. The Authority therefore finds that it has jurisdiction to consider the appellant's second claim.

[39] This decision now turns to consider whether the appellant is a refugee within the meaning of Article 1A(2) of the Refugee Convention.

THE ISSUES

[40] The Inclusion Clause in Article 1A(2) of the Refugee Convention provides that a refugee is a person who:

"... owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it."

[41] In terms of *Refugee Appeal No 70074/96* (17 September 1996), the principal issues are:

- (a) Objectively, on the facts as found, is there a real chance of the appellant being persecuted if returned to the country of nationality?
- (b) If the answer is yes, is there a Convention reason for that persecution?

ASSESSMENT OF THE APPELLANT'S CASE

[42] Before turning to the issues raised by the Convention, it is necessary to address the question of the credibility of the appellant's account.

Credibility

[43] In appeals involving a second claim to refugee status, the Authority is entitled to rely on the findings of credibility and fact made by the Authority in relation to the first claim. Section 129(P)(9) is the relevant provision of the Immigration Act and it provides as follows:

"(9) In any appeal involving a subsequent claim, the claimant may not challenge any finding of credibility or fact made by the Authority in relation to a previous claim, and the Authority may rely on any such finding."

[44] The appellant's first appeal was determined by the Authority (differently constituted) after hearing oral evidence from the appellant and three witnesses

who were called in support of her appeal. The Authority also received opening and closing written submissions and supporting documents from Ms Uca, who represented the appellant during the first appeal.

[45] In this, her second claim, the Authority is mindful that the purpose of subsequent appeals is not to rehear the first claim. The Authority is satisfied that the facts on the first appeal were well traversed and relies upon the findings of credibility and fact made in the determination of the first appeal. The demeanour of the appellant during the oral interview for the second appeal and her inability to provide any meaningful detail about her life in Somalia in 1998-1999 confirmed to the Authority that the account she presented in her first appeal was not credible.

[46] For the sake of clarity, the relevant findings of the Authority in the first appeal are set out verbatim below:

[73] The Authority therefore rejects the entirety of her account with the exception of her Somali nationality. It rejects the claim to have lived for the best part of 10 years in Z camp. It has no evidence as to where in truth the appellant has spent the past 10 years.

[74] The Authority's rejection of her life in the camp includes a rejection of her account of her marriage and subsequent temporary return to Somalia with her husband. Her account of living for this considerable period of time in the camp is such a significant part of her overall account, that its rejection causes the Authority to also reject the claimed basis upon which she alleges to have ended up living there, namely, it being the end point of a claimed journey of displacement from Y to Z as a result of the civil war.

[75] Accordingly, the Authority has no reliable evidence before it as to her actual personal and family circumstances.

[76] As to her nationality, the Authority notes that counsel has filed a letter from the president of the Waikato Somali Friendship Society, dated 17 June 2005, confirming that the appellant is a person of Somali origin. Although this person was not called as a witness, the Authority accepts that as president of this Society, the author of the letter would be in a position to assess the ethnic origins of the appellant independent of any recounting by the appellant as to her experiences. To that extent it can be given some weight in contrast to the remainder of the assertions in the letter.

[77] The Authority also notes in this regard the evidence of FF who, as a Kenyan-born Somali, could easily distinguish between her own accent and that of the appellant indicating the latter was not Kenyan-born. This aspect of FF's evidence, based on her own inherent personal characteristics as a reliable comparator, is of a different quality to her opinion as to the appellant's camp-dwelling existence and is therefore accorded more weight. Moreover, HH also stated that she too could tell from the appellant's accent that she was a Somali national.

[78] In light of this, and recalling the low standard of proof in this jurisdiction, the Authority accepts the appellant is a female Somali national, born in Somalia.

[79] Beyond this, nothing else is accepted. The Authority has no credible evidence as to the appellant's actual family situation or Dulbahante clan affiliation and in particular, that she has no family in Somalia. GG's evidence on this point is

rejected on grounds of weight as described above. FF would only state that she thought the appellant was of the Darod tribe. She could not say any more as to clan affiliation. HH could only say she was Somali born in Somalia. The president of the society does not offer any opinion.”

[47] As to the appellant’s further claims, the Authority accepts that the appellant has a New Zealand-born son and is currently pregnant and expecting another child in February 2009. Both of these facts are corroborated by medical evidence (noted above) and, in the case of the young son, official New Zealand birth registration records.

[48] In summary then, the Authority finds that the appellant, at the time of determination, is a female Somali national who was born in Somalia and who would be returning there pregnant or accompanied by a small baby and (as accepted for the purposes of this decision) a young son. In the absence of credible evidence, no other findings as to the profile or circumstances of the appellant on return to Somalia can be made.

[49] This decision now turns to assess whether these facts as found are sufficient to establish that the appellant has a well-founded fear of being persecuted for a Convention reason if she were now to return to Somalia.

Well-founded fear of being persecuted in Somalia

[50] While the country information about the general situation facing some civilians in Somalia, particularly around the capital of Mogadishu and further south, paints an undeniably bleak picture of significant violence, displacement, poor health, unsanitary living conditions and food shortages, such information does not establish a risk of being persecuted to the real chance level for every individual who returns to Somalia, regardless of individual circumstances. In other words, while there is a risk of serious harm for some individuals in Somalia, for others (such as those with familial or clan connections that can provide safety and support) there is no such risk.

[51] This view is confirmed by a recent Operational Guidance Note (“OGN”) published by the UK Border Agency which evaluates the general, political and human rights situation in Somalia as at September 2008. While the OGN details areas of Somalia and profiles certain groups within Somalia who may be at particular risk of serious harm, it also reports on the stability of various areas within Somalia and the ability of citizens to ensure their personal safety by residing in the “home areas” of their clan “where they can seek and receive adequate protection

from their kinship group” (paragraph 3.7.4). It notes that internal relocation for major clan affiliates is possible because there will be clan affiliated groups living in many other areas of Somalia in addition to their traditional homeland (paragraph 3.7.9). The OGN also notes that “large parts of northern Somalia, namely Somaliland and Puntland, are considered generally safe regardless of clan membership”.

[52] The appropriate question to be considered is whether considering the totality of the evidence, an individual, having all of the appellant’s characteristics, would face a real chance of serious harm for a Convention reason if she were sent to Somalia. See *A v RSAA* (CIV 2004-4-4-6314, 19 October 2005, HC, Auckland, Winkelmann J) at [38].

[53] The Authority has no information before it to support a finding that all Somali women who return from abroad are at risk of being persecuted for a Convention reason. Indeed, in her memorandum of counsel (dated 15 February 2008, paragraph 20), Ms Uca concedes that she is “not arguing that all Somali women ought to be recognised as a refugee it is strongly submitted that this appellant is at risk of serious harm in Somalia because of her particular characteristics.”

[54] Ms Uca’s contends (which contention is adopted by Ms Datt by way of her memorandum dated 22 September 2008, paragraph 2.1) that the *specific characteristics* of the appellant which exacerbate her risk of being persecuted to the real chance level are: that the appellant has no protection (paragraph 9); the appellant’s young age, membership of the Durbahante clan, marital status (as a divorced and separated woman with a child born out of wedlock), personality type and economic status (paragraph 10).

[55] However, the specific characteristics relied on by the appellant to support the contention that she would be at risk, to the real chance level, of being persecuted in Somalia have not been established before this Authority. As already noted, the Authority has found that there is no credible evidence to establish that the appellant lacks protection or familial connections in Somalia, is a member of the Durbahante clan or that she is in the vulnerable social or economic situation that she asserts. Neither is there any credible evidence that she would be an internally displaced person or would settle in an area of Somalia which suffers from ongoing violence. These assertions are unsubstantiated by any credible evidence and therefore can not form the basis of a well-founded assessment.

[56] Ms Uca and Ms Datt have also provided the Authority with country information detailing the risks of serious harm to various groups of people within Somalia such as women from a minority clan, rural women, and women living in IDP camps. Again, while the information details a potentially dire situation for those to whom it relates, there is no credible evidence in this case to establish that the appellant would face any one of those predicaments were she to now return to Somalia.

[57] The fact of the appellant being pregnant and possibly being accompanied back to Somalia by her New Zealand-born child can not therefore be viewed as an exacerbation of the circumstances faced by the appellant such that she can be said to be at risk of being persecuted, even to the low threshold applicable in this jurisdiction. In the absence of any credible evidence as to the particular circumstances which the appellant would face on return to Somalia, the Authority has no basis on which to determine that she is at risk of being persecuted for a Convention reason.

[58] For these reasons, the Authority finds that the appellant answers the first principal issue in the negative. The need to consider the second issue as framed does not therefore arise.

CONCLUSION

[59] The Authority finds that the appellant is not a refugee within the meaning of Article 1A(2) of the Refugee Convention. Refugee status is declined. The appeal is dismissed.

"B A Dingle"

B A Dingle
Member