



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

Appeal Number: DA/01586/2014

THE IMMIGRATION ACTS

**Heard at Field House
On 12 November 2015**

**Decision and Reasons
Promulgated
On 21 December 2015**

Before

**LORD TURNBULL
(SITTING AS A JUDGE OF THE UPPER TRIBUNAL)
UPPER TRIBUNAL JUDGE CRAIG**

Between

**T T
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms R. Chapman, of Counsel instructed by Wilson Solicitors
For the Respondent: Mr E. Tufan, Home Office Presenting Officer

DECISION AND REASONS

Introduction

1. The appellant is a 42-year-old citizen of Sri Lanka who entered the United Kingdom in May 1999, made an asylum claim at that time and has lived in this country ever since. He suffers from paranoid

schizophrenia and since November 2011 has lived in the Maison Moti care home, which is described as an intensive rehabilitation unit. He has appealed with permission to the Upper Tribunal against a decision of the First-tier Tribunal promulgated on 24 June 2015, following a hearing at Taylor House on 27 May 2015. The principal focus of the appeal is the First-tier Tribunal Judge's assessment of the appellant's claim that his rights in terms of Article 3 of the European Convention on Human Rights would be breached by his return to Sri Lanka in light of his enduring mental illness.

2. The appellant has a lengthy immigration history which is set out in detail in paragraph 2 of the First-tier Tribunal Judge's decision. In summary, it is this. His initial claim for asylum was refused in January 2000 and by various appeal processes his challenge to that decision was dismissed, allowed and dismissed again, his asylum claim being finally refused by decision dated 10 April 2003.
3. The appellant has a lengthy history of mental health disorder which has, at times, been associated with offending. In November 2000 he was convicted of assault, a disposal under the Mental Health Act 1983 was pronounced and he remained in hospital for a period of two years. After a short period of being supported in the community, and after the final successful appeal by the Home Office resulting in the rejection of his asylum claim, the appellant was then re-admitted on a voluntary basis to hospital. Whilst in hospital he committed a further offence in February 2004 in which he broke a chair and struck a fellow patient on the head with part of it. He was subsequently convicted in October of that year of Grievous Bodily Harm and a further order detaining him under the Mental Health Act was imposed.
4. In light of these convictions notice of a decision to make a deportation order was communicated to the appellant on 28 February 2007 and an appeal against his proposed deportation was dismissed on 30 July 2007. He remained detained under the Mental Health Act order until 3 November 2011 when he was discharged to the care home where he presently lives. After various other procedures he was served with a letter dated 24 July 2014 giving reasons for the Secretary of State's refusal to revoke the deportation order. It was that refusal to revoke which was the subject of appeal to the First-tier Tribunal.

A summary of the relevant previous decisions

5. It may be helpful to set out a brief summary of the relevant previous decisions concerning the appellant.

The 2003 decision finally refusing the appellant's claim for asylum

6. The import of the 10 April 2003 determination is summarised by the First-tier Tribunal Judge in paragraph 6 (b) of his decision (although he incorrectly refers to it as the decision which allowed the appellant's asylum appeal). It is noted that the appellant's claim was that he had

supported the LTTE, had been detained by the army, beaten and released after his parents paid a bribe. He was subsequently detained again by the army, again beaten and ill-treated and after a further bribe was paid he was released on an undertaking that he would no longer be involved with the LTTE. After spending some time in a refugee camp he travelled to Colombo where, with the assistance of an agent, he made arrangements to leave Sri Lanka. It was accepted that the appellant's mother had been detained and convicted after trial but it was noted that neither she nor any other member of her family was of interest to the authorities after her release. The appellant himself was never charged and it was held that he would not be of interest to the authorities on his return to Sri Lanka.

The 2007 decision refusing the appellant's appeal against a decision to make a deportation order

7. By the time of the 2007 decision a body of information from the doctors who had been treating the appellant over the years was available. It was noted that he had given varying accounts of his experiences to his treating doctors which were odds with his witness statement and with his account of being active within the LTTE. By this stage a report was also available from Professor Good expressing support for the view that the appellant would be at risk on return. In relation to the appellant's medical condition it was concluded that his symptoms were under control, that he had exhibited no psychotic symptoms since early 2005 and that mental health hostels were available in Colombo. It was decided that the authorities would have no particular interest for political reasons in the appellant on his return, that the appellant was not suffering from the advanced stage of a terminal and incurable illness, that even if the medication which he was taking was not available the withdrawal of more sophisticated medicine did not amount to inhuman treatment and that he had not established that there were exceptional circumstances such that his removal would be in breach of his Article 3 rights.

The Secretary of State's decision of 24 July 2014

8. In explaining the decision to refuse to revoke the deportation order the Secretary of State took account of the report from Professor Good and an update which he had subsequently prepared, along with various other reports concerning the situation for suspected LTTE sympathisers and failed asylum seekers. She also observed that the situation in Sri Lanka had improved considerably and relied upon the decision in Gj and Ors. (post-civil war returnees) Sri Lanka CG [2013] UKUT 00319. Having done so the Secretary of State concluded that the appellant would not be of interest to the Sri Lankan authorities if he was returned and that in any event his account of being involved with the LTTE had been disbelieved in the previous appeal proceedings and therefore it was not accepted that his Article 3 rights would be breached if he was returned.

9. The Secretary of State also considered whether there were suitable facilities in Sri Lanka to remove the appellant to. She noted that the appellant was being treated with Clozapine and that this was readily available in Sri Lanka. Relying on Country of Origin Information and the World Health Organisation Mental Health Atlas 2011, she observed that whilst any facilities available in Sri Lanka may not be of the same standard as that provided in the United Kingdom suitable treatment facilities would be available. Having drawn attention to what she considered to be the relevant case law the Secretary of State concluded that there was nothing to indicate that the treatment available for the appellant in Sri Lanka would be of sufficiently poor quality as to amount to an effective denial of treatment or to engage Article 3 or Article 8.

The hearing before the First-tier Tribunal

10. Two issues were the subject of evidence and submissions before the First-tier Tribunal. The first was the extent to which the appellant might be at risk if returned to Sri Lanka. The second encompassed the extent of his mental health difficulties, his current treatment and level of support, the impact on his mental health if deported and the extent to which appropriate care might be available in Sri Lanka.

The first issue.

11. The First-tier Tribunal Judge recognised that the appellant had not been found credible on issues concerning his association with the LTTE when his asylum claim was rejected, nor in his deportation appeal in 2007. Keeping in mind the principle stated in the case of Devaseelan the Judge was not prepared to except the varying accounts before him of the appellant's claimed involvement with the LTTE. He did though give consideration to the appellant's present profile in light of the guidance given in GJ and Ors. He noted that the appellant was not an activist and that his name would not be on a computerised "stop" list as someone against whom there was an extant court order or arrest warrant. He concluded that there was nothing in the appellant's profile which would cause him to be of interest to the Sri Lankan authorities.
12. The Judge also considered the evidence which suggested that the appellant might come to be detained because of his mental health problems and a submission, based upon what was said in paragraph 168 of GJ, that in detention he would be subjected to severe ill-treatment. The judge concluded that the reference in that paragraph of the Upper Tribunal's decision to individuals being at risk in custody was a reference to those with a political profile as perceived Tamil activists, and to former members of the LTTE going through a process of so-called rehabilitation. Accordingly, he rejected the submission that the appellant would be subject to persecution if he found himself in detention having been returned to Sri Lanka.

The second issue

13. The second issue before the First-tier Tribunal Judge was perhaps the one upon which most reliance was placed by the appellant. The appellant relied upon an up-to-date psychiatric report from Dr Obuaya which noted a previous conclusion that the appellant would require lifelong mental health treatment, including input from a Community Mental Health Team, structured daytime activities and supported accommodation. Dr Obuaya expressed his own opinion that 24 hour supervision was likely to be required in the appellant's case due to the risk to his health and to other people arising from his mental disorder when he was unwell. His long-term prognosis was likely to be moderate if psychosocial stresses could be minimised and a treatment plan adhered to. Dr Obuaya's report included his opinion that if the appellant was to be deported there would be a need for the same level of psychiatric support as he currently received, otherwise it would be very likely that he would experience a relapse into his schizophrenic illness which would make it very difficult for him to engage in the tasks needed to establish a new life for himself. He considered the appellant would be at particular risk of self-neglect and exploitation by others if his mental state deteriorated without adequate support.
14. The appellant also relied upon a report from Dr Chris Smith which addressed current circumstances in Sri Lanka, with particular reference to the availability of mental health facilities. Dr Smith confirmed that the medication Clozapine presently being taken by the appellant was available in Sri Lanka. He explained that the only secure mental health facility available was the National Institute of Mental Health, a government run establishment in Angoda, Colombo. In his report Dr Smith also described the level of stigma associated with mental health in Sri Lanka and commented upon how this impacted on the provision of, and access to, relevant services. He referred to a study on the attitudes of Sri Lankan doctors suggesting that they endorsed stigmatising attitudes towards mental illness. Dr Smith concluded that whilst in principle mental health workers were available in Sri Lanka, their professional standards were likely to be so poor as to be less than worthwhile.
15. Before the First-tier Tribunal the Secretary of State relied upon the Sri Lankan National Institute of Mental Health Annual Report 2013. This report noted that whilst the Institute in Angoda had previously been a mental institution with a custodial role it had now been upgraded to a National Institute. The report noted that 1,500 inpatient beds were available providing treatment for all types of mental illnesses and that more than 8,000 patients were admitted to the National Institute of Mental Health annually for acute or intermediate treatment as well as specialised services. The report noted that a Community Psychiatric Unit, a Day Treatment Centre, an Occupational Therapy Unit and a Psychiatric Social Work Unit were all also available.

16. The First-tier Tribunal Judge set out a note of what he considered to be the relevant case law in paragraphs 23 to 30 of his decision. From these cases he sought to identify the legal principles to be applied in considering a health case which was said to engage either Article 3 or 8 of the Convention. He then went on to explain how he applied those principles to the circumstances of the appellant's case in paragraphs 31 to 35.
17. In his analysis of the case law the First-tier Tribunal Judge drew attention to Baroness Hale's comment in Razgar [2004] UKHL 27, that only the most compelling humanitarian considerations are likely to prevail over the legitimate aims of immigration control or public safety. He also referred to Lord Hope's comment in N v SSHD [2005] UKHL 31, that for an alien to be able to claim entitlement to remain in order to benefit from medical assistance the circumstances must be exceptional. The Judge noted that in D v United Kingdom (1997) 24 EHRR 425, the exceptional circumstances were that fatal illness had reached a critical stage. He referred to the decision of N v United Kingdom [2008] ECHR 453, in which it was said that in medical cases Article 3 applied only in very exceptional circumstances and to GS (India) and Others v SSHD [2015] EWCA Civ 40, which he saw as providing further support for the proposition that Articles 3 or 8 were not infringed by removal from the United Kingdom to a destination state with a lack of adequate health care, save in the most exceptional case.
18. Drawing together the guidance in these and the other cases to which he referred, the First-tier Tribunal Judge then arrived at a number of conclusions, which he set out at paragraphs 31 and 32 of his decision. First, he concluded that the appellant's situation was not a deathbed or critical case scenario. Secondly, he concluded that the appellant's case was that he should be allowed to continue receiving health care in the United Kingdom because of the disparity between that treatment and that to be expected in Sri Lanka. Thirdly, he concluded that before any such disparity should be considered the appellant required to bring himself within the critical deathbed scenario. Fourthly, he concluded that in any other exceptional case which would engage Article 3 or 8 the relevant exceptionality would still require to be something akin to a critical or deathbed scenario.
19. Having arrived at these conclusions the Judge noted that in any event the evidence available to him from the report relied upon by the Secretary of State demonstrated that some of the evidence in Dr Smith's report concerning the facilities in the Angoda Institute was out of date and misleading. As he noted in the last sentence of paragraph 31 of his decision, he was satisfied that significant improvements had now been made in the facilities which would be available to the appellant.

20. In light of his conclusions the Judge held that the appellant had failed to establish that his deportation to Sri Lanka would constitute a disproportionate interference with his rights under either Article 3 or 8 and had failed to establish that exceptional circumstances existed such as would outweigh the public interest in maintaining the deportation order.

The hearing before the Upper Tribunal

21. The appellant was given leave to appeal on four grounds which can be summarised as follows:

Ground 1 - the First-tier Tribunal Judge's interpretation of the application of Article 3 to a health case was too narrow and incorrect;

Ground 2 - the First-tier Tribunal Judge proceeded upon a misunderstanding of an aspect of Dr Smith's report and failed to take account of the guidance in the case of GJ;

Ground 3 - the First-tier Tribunal Judge had had erred in his interpretation of what had been said by the Upper Tribunal in paragraph 168 of the decision in GJ;

Ground 4 - the First-tier Tribunal Judge had erred in his interpretation of paragraph 398 and 399A of the Immigration Rules.

Each of the grounds of appeal was supported by detailed analysis in the written application for permission and each was further developed by Ms Chapman in oral submissions. It may be convenient to deal with Grounds 2, 3 and 4 first.

22. In support of Ground 2 there was a tentative argument to the effect that the First-tier Tribunal Judge had misconstrued the evidence of Dr Smith regarding the conditions within the Angoda Mental Health facility. The proposition arose out of comments which the Judge had made in paragraph 31 of his decision concerning photographs which Dr Smith had appended to his report. On a fair reading of this paragraph we are satisfied that there has been no misunderstanding or other error on the part of the First-tier Tribunal Judge in relation to Dr Smith's evidence.
23. The second proposition advanced in support of Ground 2 was, that in so far as the First-tier Tribunal Judge came to the view that the facilities which would be available to the appellant in Sri Lanka had significantly improved in recent years, he failed to take account of what was said in paragraph 456 of GJ. In that passage of its decision the Upper Tribunal noted that mental health services in Sri Lanka were sparse and limited to the cities. It referred to the Secretary of State's Operational Guidance Note which stated that the available facilities "do not provide appropriate care for mentally ill people." Ms Chapman was therefore correct to observe that there is an apparent

conflict between what is said at paragraph 456 in the case of GJ and what the First-tier Tribunal Judge has said in the last sentence of paragraph 31 of his decision. However, the Operational Guidance Note which was before the Upper Tribunal was dated April 2012, whereas the report upon which the First-tier Tribunal Judge relied was the National Institute of Mental Health Annual Report for 2013. Precisely which periods these documents relate to is not immediately clear but in light of the decisions which we have arrived at in relation to the other grounds, as explained below, we do not consider that any further clarification is necessary at this stage. We are content to record that the First-tier Tribunal Judge arrived at a sustainable view on the information before him and we therefore conclude that there is no merit in either argument advanced in support of Ground 2.

24. We mentioned in paragraph 12 above the submission made to the effect that the appellant would be subjected to severe ill-treatment if he came to be detained in Sri Lanka. Before the First-tier Tribunal and before us that submission was based upon the concession made on the Secretary of State's behalf in the case of GJ, as recorded by the Upper Tribunal at paragraph 168 of its decision. The opening sentence of that paragraph reads:

“Mr Hall accepted that individuals in custody in Sri Lanka continue to be at risk of physical abuse, including sexual violence, and that such risk is persecutory.”

The argument advanced in support of Ground 3 was that the Secretary of State had conceded that anyone who was detained in custody in Sri Lanka would be at risk of persecution and that accordingly the appellant, as someone who might come to find himself in detention, was entitled to international protection. Like the First-tier Tribunal Judge, our view is that this argument is misconceived. In our view, reading the full content of paragraph 168, and understanding the context of where it appears in the judgement, makes it plain that the concession was to the effect that detained individuals within a certain category remained at risk. That category was those detained under the Prevention of Terrorism Act, such as the members of the LTTE who had been undergoing a re-education process known as “rehabilitation” and had found themselves detained for lengthy periods without judicial supervision. We consider that the First-tier Tribunal Judge understood properly the import of this paragraph and that his own analysis, as set out in paragraph 22 of his decision, is beyond criticism. We therefore conclude that there is no merit in the argument advanced in support of Ground 3.

25. Paragraph 398 of the Immigration Rules applies where a foreign criminal seeks to resist deportation upon the premise that to do so would be contrary to his rights in terms of Article 8. Paragraphs (a) and (b) contain the assumption that deportation of such a person will be conducive to the public good and in the public interest if the offence of which the person has been convicted has resulted in a

sentence of imprisonment of at least 4 years, and less than 4 years but at least 12 months respectively. Neither paragraph applies to the appellant since, although he was convicted of offences in both November 2000 and October 2004, on each occasion a hospital order rather than a sentence of imprisonment was imposed. In argument in support of Ground 4 it was submitted that the Secretary of State had erroneously relied on paragraph 398(c) in that the appellant was not “a persistent offender who had shown a particular disregard for the law”. It was further argued that consideration ought also to have been given to the terms of rule 399A, since the appellant had lived for many years in the United Kingdom, albeit under the auspices of orders made under the Mental Health Act, and was socially and culturally integrated in this country.

26. In our view the argument advanced in support of this Ground of appeal has no merit. Rule 398(c) is in the following terms:

“(c) the deportation of the person from the UK is conducive to the public good and in the public interest because, in the view of the Secretary of State, their offending has caused serious harm **or** they are a persistent offender who shows a particular disregard for the law, the Secretary of State in assessing that claim will consider whether paragraph 399 or 399A applies and, if it does not, the public interest in deportation will only be outweighed by other factors where there are very compelling circumstances over and above those described in paragraphs 399 and 399A”

27. It is clear from paragraphs 53 to 58 of the Reasons for Refusal letter of 24 July 2014 that the Secretary of State considered paragraph 398(c) applied to the appellant because he was an offender who had caused serious harm. The First-tier Tribunal Judge agreed that the appellant met the criteria for deportation as set out in paragraph 398(c). Given the circumstances of the offence which led to the appellant’s conviction for grievous bodily harm in October 2004, as described in paragraph 3 above, we are satisfied that both the Judge and the Secretary of State arrived at the correct conclusions. We are also satisfied that Rule 399A does not apply to the appellant. The principal reference in the ground of appeal is to the appellant being culturally and socially integrated and it simply skirts over the requirement in paragraph 399A (a) that the person “has been lawfully resident in the UK for most of his life”, which, as the First-tier Judge noted, this appellant has not.
28. We turn then to consider Ground 1, which was the principal focus of argument before us. Ms Chapman submitted that the First-tier Tribunal Judge had concluded that if deportation was resisted on medical grounds, Article 3 could only be engaged if that person was on his or her deathbed, and that this was an incorrect view of the law. She submitted that the Judge had misunderstood the import of the cases of D v United Kingdom, N v SSHD and N v United Kingdom. She

observed that the Judge had given no consideration at all to the line of authority reflected in cases such as MSS v Belgium & Greece [2011] ECHR 108 and Sufi & Elmi v United Kingdom [2011] ECHR 1045, which vouched the proposition that the admittedly high Article 3 threshold would nevertheless be met if there was a serious risk of inhuman and degrading treatment on removal. Nor had he taken account of the guidance in this area which could be found in the Upper Tribunal Country Guidance case of GJ.

29. For the respondent Mr Tufan submitted that the threshold was a very high one which could only be reached in very exceptional circumstances and that the Judge had been correct in his approach to the application of the law.

Discussion

30. In paragraph 23 of his decision in the present case the First-tier Tribunal Judge noted it was accepted that:

“... the appellant’s condition did not meet the “deathbed scenarios” established in case law in relation to Article 3”.

In Paragraph 31 he observed that the appellant was:

“... in no way a deathbed or critical case scenario”.

The importance of these considerations for the First-tier Tribunal Judge can be seen in what he goes on to say in the following two further observations set out in paragraphs 31 and 32 of his decision:

“Before even considering the alleged disparity, (*in available medical care*) however, the appellant must bring himself within the critical deathbed scenario above and he does not do so”;

and

“Whilst I would not hesitate to consider Articles 3/8 if there were such an “exceptional case”, such exceptionality must, in my view, still be essentially related to something akin to a critical deathbed scenario – and that, patently, is not the situation in relation to this appellant.”

In our view these various quotes from his decision demonstrate that the First-tier Tribunal Judge was looking to see whether the sort of exceptional circumstances as were present in the case of D featured in the present appellant’s case. They also demonstrate that in his view an argument based upon a violation of Article 3 required, as a starting point, that the applicant was close to death. We therefore conclude that Ms Chapman was correct in her submission that the First-tier Judge’s view was that Article 3 could only be engaged if the appellant was on his deathbed.

31. It was however never contended that the present appellant was close to death. It might indeed be difficult to envisage how an individual suffering from mental health would ever fit the description of

someone in the terminal stages of a critical illness or, in other words, be on their deathbed. Despite this it has been plain since the decision of the European Court of Human Rights in Bensaid v United Kingdom [2001] 33 EHRR 205 that, in principle, Article 3 could be engaged if deportation would result in suffering as a consequence of a significant deterioration or relapse in a deportee's pre-existing mental illness. It has been equally plain though, given the high threshold set by Article 3 where the case does not concern the direct responsibility of the Contracting State for the infliction of harm, that such a removal would only be contrary to Article 3 in a case which displayed exceptional circumstances.

32. Further assistance in understanding the scope of Article 3 in the circumstances of ill-health was of course subsequently given by both the House of Lords and the European Court of Human Rights in the subsequent case of N, to which the First-tier Tribunal Judge also referred. Like the appellant in D, the appellant in N was suffering from a physical illness, namely HIV/AIDS. It is clear though from what the European Court of Human Rights said in paragraph 42 of its judgement that it had not moved back from the premise that Article 3 could be engaged in circumstances where the individual concerned was suffering from mental illness:

“The decision to remove an alien who is suffering from a serious *mental* or physical illness to a country where the facilities for the treatment of that illness are inferior to those available in the Contracting State may raise an issue under Article 3, but only in a very exceptional case, where the humanitarian grounds against the removal are compelling”.

33. In the case of N in the House of Lords Baroness Hale, having noted the facts in the case of D, went on to observe that there may be other exceptional cases with other extreme facts where the humanitarian considerations are equally compelling (paragraph 70). Observations to the same effect were made by the European Court of Human Rights at paragraph 43 of its decision in N. These views are in keeping with the principle otherwise recognised by the Strasbourg Court in both Bensaid and N that the decision to remove an alien who is suffering from a serious mental illness may raise an issue under Article 3.
34. It is worth noting that in Bensaid and N (at both levels) the courts took note of the fact that the exceptional circumstances which engaged Article 3 in the case of D included the fact that the applicant was in the terminal stages of a physical illness. The appellant in Bensaid was not critically ill though and a crucial finding made by the court against his claim was that the risk of deterioration and of not receiving adequate support or care was, in his case, to a large extent speculative (paragraph 39).

35. A compelling analysis of the scope of Article 3 and the scope of the binding decision of the House of Lords in N was undertaken by Lord Justice Laws in the case of GS (India) & Ors. For present purposes five of his conclusions are of assistance:

“The paradigm case of a violation of Article 3 is an intentional act which constitutes torture or inhuman or degrading treatment or punishment (paragraph 39);

In response to humanitarian imperatives the Strasbourg court and the House of Lords have accepted a degree of enlargement to Article 3 (paragraph 46);

There may be departures from the Article 3 paradigm other than of the kind vouchsafed in D v UK (paragraph 62);

In circumstances not reflecting the paradigm case the Strasbourg court has adopted different approaches in determining whether a breach of Article 3 has occurred, as can be seen by the approach taken in the case of MSS v Belgium and Greece on the one hand and N v UK on the other (paragraph 57);

The D exception is confined to deathbed cases.”

36. Having considered what we understand to be the guidance available in the case law to which we have referred we return to the approach taken by the First-tier Tribunal Judge in the present appeal. We conclude that he was wrong in law in testing the appellant’s claim that deportation would infringe his Article 3 rights by reference to the circumstances in the case of D. As Lord Justice Laws made plain, the case of D is only of application to deathbed cases, which is not the appellant’s case. We also conclude that the First-tier Tribunal Judge was wrong in law in holding that an argument based upon a violation of Article 3 required, as a starting point, that the applicant was close to death and wrong in law to conclude that the sort of exceptional circumstances which would permit Article 3 to be engaged were restricted to something akin to a critical or deathbed scenario.
37. Having concluded that the First-tier Tribunal Judge erred in law in the ways described we do not claim to be in a position to list or identify what sort of exceptional conditions might engage Article 3 in a case such as the appellant’s. We did not hear submissions on this subject and nor, of course, are we in a position to determine whether or not any such exceptional circumstances are in fact present in the appellant’s case. We would restrict ourselves to observing that, in differing circumstances, the European Court of Human Rights in the case of Aswat v United Kingdom (Application no. 17299/12) 16 April 2013 and the Upper Tribunal in dealing with the third appellant’s case in the case of GJ & Ors, each held that expulsion of an alien suffering from mental illness would not be compliant with the United Kingdom’s international obligations under Article 3.

Conclusions

38. The making of the decision of the First-tier Tribunal did involve the making of an error on a point of law and that decision is set aside.
39. The appeal will be remitted to the First-tier Tribunal sitting at Taylor House for rehearing.

Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008

Unless and until a Tribunal or court directs otherwise, the appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify him or any member of his family. This direction applies both to the appellant and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.

Signed: Alan D. Turnbull
Judge of the Upper Tribunal

Date: 8/12/2015