



IN THE SUPREME COURT OF THE UNITED KINGDOM

15 MARCH 2018

Before:

Lady Hale
Lord Hodge
Lord Lloyd-Jones

**Djaba (Appellant) *v*
West London Mental Health NHS Trust and another (Respondents)**

AFTER CONSIDERATION of the application filed on behalf of the Appellant seeking permission to appeal the order made by the Court of Appeal on 28 June 2017 and of the notice of objection filed by the First Respondent

THE COURT ORDERED that

- (1) permission to appeal BE REFUSED because the application does not raise an arguable point of law of general public importance which ought to be considered by the Supreme Court in this case. It cannot be ruled out that the conditions of a patient's detention in hospital might be relevant to whether or not the statutory criteria for detention are met and therefore whether continued detention is compatible with the patient's Article 5 rights. But there is no doubt, on the factual findings in this case, that the statutory conditions for detention are met and therefore that the patient's Article 5 rights have not been violated.

The patient might well have a complaint about the most unusual conditions of his detention, but the tribunal has no power to direct that these be altered. Those conditions could raise issues under both Articles 3 and 8 of the Convention (see, for example, *Shahid v Scottish*

Ministers [2015] UKSC 58, [2016] AC 429). Such claims may be made either in judicial review proceedings or in free-standing proceedings under section 7(1) of the Human Rights Act 1998. The greater accessibility and the expertise of the tribunal might make it a more suitable forum for the resolution of such disputes but that is not currently the law and it is not possible in these proceedings to confer upon the tribunal a jurisdiction which it currently does not have

- (2) the Appellant pay the First Respondent's costs of the application and, where the First Respondent applies for costs, the costs to be awarded be assessed.

 Louise di Mambro.

Registrar
15 March 2018

