CO/13436/2009

Neutral Citation Number: [2012] EWHC 801 (Admin)
IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
THE ADMINISTRATIVE COURT

Royal Courts of Justice
Strand
London WC2A 2LL

Tuesday, 20 March 2012

B e f o r e:

PHILIP MOTT QC
(Sitting as a Deputy High Court Judge)

Between:

THE QUEEN ON THE APPLICATION OF C

Claimant

v

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Defendant

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(Official Shorthand Writers to the Court)

Mr Paul Nettleship (instructed by Sutovic & Hartigan) appeared on behalf of the **Claimant**

Mr Dennis Edwards (instructed by Treasury Solicitors) appeared on behalf of the **Defendant**

J U D G M E N T
(As Approved by the Court)

1. THE DEPUTY JUDGE: This is an application for judicial review following permission being granted by Nicol J on 22 June 2011.

2. Following amendment to the grounds, the challenge is to decision letters dated 20 May 2010 (page 321 of the bundle) and 31 March 2011 (page 335).

3. The claimant entered the United Kingdom on a visitor's visa on 24 September 2008 having come from Syria. On 30 September 2008 he claimed asylum - so very promptly. That was refused on 28 November 2008. His appeal against that refusal was dismissed by Immigration Judge Ruth on 4 March 2009 and no further appeal was attempted. Since then, further material has been put forward to the Secretary of State in a number of stages for reconsideration. That has led to a series of further decision letters, of which those challenged are the last two. Each of these decision letters rejected the new material and refused to accept it as amounting to a fresh claim. As a result, of course, there would be no in-country right of appeal, and the only challenge to that decision of the Secretary of State is by judicial review.

4. This judicial review, of course, is not a way of undertaking such an appeal by way of assessing the merits. If it succeeds, any substantive assessment of the merits of the new material, together with all the old evidence, would be for the Tribunal and not for this court.

5. A little of the background first of all. The claimant was born in Syria in 1954. In 1970 he took part in a demonstration against President Assad, the father of the current Syrian President. He was arrested, detained for seven days and tortured. All that was accepted by the Immigration Judge in 2009.

6. In 1988 he was arrested again, detained for several days and mistreated. That too was accepted by the Immigration Judge. Thirdly, in 1990 he was again arrested and tortured, as accepted by the Immigration Judge in 2009. For about the next 18 years he worked, at least sporadically, as a merchant seaman, going in and out of Syria, although on a number of occasions using ports in Lebanon.

7. On 27 August 2008 he went to Beirut in Lebanon to apply for a visa at the British Embassy there. The purpose of his visit was to see his sister in England, who had been diagnosed with cancer. He returned to Syria the same day and there remained for about four weeks until 24 September 2008, when he left for the United Kingdom, leaving his wife and three children at home in part of Syria.

8. The argument in these proceedings is that new material provided to the Secretary of State between March 2009, when the Immigration Judge's decision was made, and March 2011, when the last decision letter was issued, amounts to a fresh claim. That is defined by paragraph 353 of the Immigration Rules in terms which are well familiar and I do not need no set out in this ex tempore judgment, save shortly to note that it requires submissions whose content had not already been considered, which, taken together with previously considered material, create a realistic prospect of success, notwithstanding their rejection on the merits by the Secretary of State, and also that the question of whether there is a realistic prospect of success provides what has been

described as a "somewhat modest" test and must be made subject to subjecting the material to "anxious scrutiny".

9. I have been referred (amongst other authorities in the bundle) to the case of WM (DRC) v the Secretary of State for the Home Department [2006] EWCA Civ 1495, which, amongst other places, sets out the approach to be adopted, and I bear that in mind.

10. The factual basis put forward by the claimant, or on his behalf, for asserting a fresh claim is twofold: firstly, new expert opinion on the claimant's mental state and the effect that removal from the United Kingdom would have on that. That factual basis is argued in two ways: under Article 3 of the European Convention on Human Rights because of the alleged risk of his suicide if a removal order were made; and also under Article 8 because of interference with his family life, specifically his emotional dependence on his sister and indeed her dependence on him.

11. The second factual basis for asserting a fresh claim is different and involves evidence of his participation in political activity in the UK against the current Assad regime, described as "sur place" activity, leading to, it is said, a real risk of treatment of him by the regime contrary to Article 3 on his return to Syria.

12. It is said that no issue arises from the current situation in Syria, as the claimant will not be returned either forcibly or at his own volition because Her Majesty's Government currently does not permit immigration officers to accompany removals to Syria, nor indeed anyone to return there with their assistance. That submission is true up to a point, I accept, but it seems to me that the assessment of the risk of persecution as a result of political activity in the United Kingdom depends both on the nature of that activity, but also on the nature of the regime against which the activity is directed. Thus, the repressive nature of the Syrian regime is relevant to that extent, and any assessment of risk would have to assume the continuance of the present regime, even though actual return would have to wait for some greater political stability and assuming that things would return to the position they were in, say, a year ago.

13. It also seems to me that the likely risk of suicide and that risk assessment and balance must be assessed against the background of what is generally known about the state of affairs in Syria, because if somebody is suicidal because of a perceived, even if not an objectively supported, risk of persecution, that suicide risk may well be increased by a knowledge of certainly what is today reported, that over 8,000 people have been killed by the regime in the past year.

14. Of course, I must bear in mind that the decision letters must be assessed for reasonableness on the basis of the situation at the time they were written, and the latest is dated 31 March 2011. But by then the Syrian regime was already known to be repressive in a way not appreciated two years earlier when the Immigration Judge's decision was made, even though the full extent of that repression has only recently become apparent. So it does seem to me that there is a limited extent to which the situation in Syria one year ago by 31 March 2011 is potentially relevant, and relevant when compared to the position in March 2009 before the start of what is known as the Arab Spring.

15. I will deal first of all and shortly with the evidence of political activity in the United Kingdom. The material which is said to found a fresh claim is very limited indeed. It appears at pages 68 to 71 of the bundle that the claimant is an active supporter of the Damascus Declaration, but no further details are given. It appears in his own statement, which is repeated elsewhere in the papers but appears in its firsthand form at page 94, that he attended demonstrations at the Syrian Embassy in November 2009 and again in April 2010, and on the latter occasion stayed only for 30 minutes because of fear of being observed and filmed.

16. There are some photographs, apparently taken from a Syrian opposition website, which were provided to the Secretary of State and are provided to me only in photocopy form where no individual party can be identified and where the date is not identified. It is said to show the claimant at one such demonstration.

17. It seems to me that in the background that is set out (and I will deal with it shortly) in the Immigration Judge's decision, that new material, taken alone, cannot be said to amount to a fresh claim giving rise to any realistic prospect of success if it were to be reconsidered by a Tribunal.

18. In relation to the medical and emotional situation of the claimant, and indeed a general consideration of all the claims made, the starting point must be the Immigration Judge's decision in March 2009. That is in the bundle at page 157. I pick out only particular passages of that to give a flavour of it, having read the whole in some detail.

19. In paragraph 40 the Immigration Judge records the appellant's demeanour (the claimant in this case). He was generally distressed and highly agitated throughout the appeal. The Immigration Judge then considered the submissions about medical evidence, because the only medical psychiatric evidence put forward was on behalf of the current claimant, and of course, as he accepted in paragraph 46, it does not mean that he was bound to accept the background facts alleged to the doctors by the appellant, but the Immigration Judge did conclude in paragraph 47:

> "For these reasons I accept the opinions in the medical reports that the appellant is suffering from depression, PTSD and suicidal thoughts, and this has affected the manner in which I have assessed his oral evidence as I set out below."

20. The Immigration Judge then concluded, after a careful examination of the evidence in paragraph 58, that it is likely that the claimant was arrested and subjected to mistreatment on three occasions in 1970, 1988 and 1990, as I indicated.

21. Paragraph 69 follows an assessment of the evidence, and concludes with the Immigration Judge saying, "It strikes me as incomprehensible that he would return to Syria having successfully escaped". That is if he was generally in fear of arrest, and again, at the end of that paragraph, "Travelling back to Syria having escaped to Lebanon is simply not consistent with the actions of a person fleeing Syria in fear of his life". At paragraph 70 the Immigration Judge records that it is very surprising indeed that he would have abandoned his wife and children and allowed them to remain in the

family home, a home which previously he said had been raided and so was known to the authorities.

22. As a result the Immigration Judge concluded in paragraph 78 that the risk to the appellant of persecution on return was not a real risk or a risk reasonably likely to materialise.

23. All that is important background and an important starting point, and reflects issues stressed on behalf of the Secretary of State at this hearing. But it also underlines the fact that the Immigration Judge would have had those conclusions as to the background evidence very much in mind when approaching the question of suicide risk, which starts at paragraph 85 of that decision. It is important to see the way in which the Immigration Judge assessed the claim then put under Articles 3 and 8 of the ECHR as to the possible suicide risk.

24. Having accepted the medical evidence that the claimant was suffering from depression, PTSD and suicidal thoughts, at paragraph 88 the Immigration Judge notes:

> "According to the most recent medical report he has no suicidal intentions at the moment but Dr Moodley considers it is likely the appellant's return to Syria would have a deleterious effect on his symptoms and lead to increased suicidal feelings and the possible need for hospital admission."

Paragraph 89 concludes with the words:

> "He is not currently at a critical stage according to the doctors, does not now intend to kill himself and is finding some relief from the drug treatment."

At paragraph 90:

> "This being the case, it does not seem to me the appellant's condition has now reached such a critical stage that to remove him from his current treatment in the UK would be inhuman..."

25. The natural inference from the juxtaposition of the last sentence in paragraph 89 and the first in paragraph 90 is that, if it were not the case that the claimant was not currently at a critical stage, if it were not the case that he did not then intend to kill himself, if it were not the case that he was finding some relief from the drug treatment, then the conclusion might well be different on the Article 3 point.

26. In essence, what the Immigration Judge was doing was to accept the report of Dr Moodley, which is in the bundle at page 213 and talks of "fleeting suicidality". The fresh medical evidence consists largely of two reports from Dr Hajioff. He is a consultant psychiatrist who for 15 years has been employed by the Home Office as visiting psychiatrist at Pentonville Prison. Nothing adverse has been said about his qualification to express an opinion.

27. His first report at page 99 of the bundle was dated 14 February 2011. He notes that the claimant was restless and fidgety throughout the assessment (paragraph 25). That I interpret as being in a manner similar to that described by the Immigration Judge during the appeal. Dr Hajioff notes in paragraph 37 that the claimant had symptoms of depression and PTSD but no psychosis. He continues in paragraph 42 to say this:

> "In view of his hopeless thoughts, his previous suicide attempt and plans to commit suicide if sent back and his conviction that he faces certain arrest, torture and death, I would regard there to be a significant risk of suicide if he sees that there is no hope of avoiding being sent back to Syria."

28. That risk, he says in paragraph 47, would remain even after treatment with medication and counselling. Indeed, in paragraph 45 the doctor says that at that stage he appeared to be showing little response to his present medication.

29. All that, it seems to me, is very different from the picture given by the Immigration Judge of not being currently at a critical stage, not then intending kill himself and finding some relief from the drug treatment.

30. There is a second report dated 22 February 2011 at page 115 in the bundle, which expresses the further view in paragraph 15 that the claimant is in a very vulnerable state and is almost totally dependent on his sister. This clearly in that context means psychologically and emotionally dependent, not simply financially dependent and practically dependent for services. He goes on to say that, without her continuous backing, the claimant would have survived only if he had been admitted to a psychiatric hospital, and in those circumstances separation from his sister would make him more depressed with an increased risk of suicide.

31. That is the principal additional psychiatric evidence. There is also a memo, but a detailed one which reads more like a medical report, from Dr Emily Harrington, Specialist Registrar in Psychiatry, dated 4 June 2010. It starts at page 240 of the bundle, and at page 242 she says that the current risk of suicide is low, but the risk will become high if he believes he is to be imminently deported to Syria.

32. I have seen, but pay no particular regard to, the report of Dr Dossett of 11 June 2011, starting at page 243 of the bundle, because it postdates the last decision complained of, but in fact it supports the general indication from Dr Hajioff and Dr Harrington that the risk of suicide, if there is a decision to remove him to Syria, is very high.

33. I turn then to the decision letter dealing with this medical evidence, which is that of 31 March 2011. It concluded, according to counsel for the Secretary of State's skeleton argument at paragraph 43, that the suicide risk essentially remained that which was considered by the Tribunal in 2009. It seems to me that, if that is what it says, it does not reflect the position as I read those new reports.

34. The letter itself at page 335 of the bundle makes a number of assertions which are inconsistent with Dr Hajioff's views, or involve a gloss or misunderstanding of the

significance of those views. Firstly, towards the bottom of the first page, the decision-maker says:

> "It is not considered that the emotional ties between them [ie the claimant and his sister] are stronger than those which normally arise between adult siblings."

That simply cannot stand with the view and expert opinion of Dr Hajioff.

35. On the second page (336 of the bundle) towards the bottom, it is noted that Dr Hajioff confirms the claimant has symptoms of depression and post-traumatic stress disorder, but carries on:

> "However there is nothing to suggest that he has a psychotic illness. Your client claims to have managed to live in Syria for 18 years with his mental health conditions and must have had access to mental health facilities while living there. No up to date evidence has been submitted to show that the medical treatment your client requires is only available in the United Kingdom. We can therefore assume that he would be able to receive adequate assistance to help with his condition on his return to Syria."

36. It seems to me that that is a misunderstanding of the significance of the medical evidence. Firstly, the absence of a psychotic illness is neither here nor there when it comes to suicide risk, because the statistical risk of suicide from a combination of depression and PTSD is high and is increased by the particular features of this case. That is of no assistance. Secondly, his fears, albeit they may be objectively without foundation, of persecution in Syria would mean that he would resist seeking and obtaining medical assistance if returned to Syria, and the decision does not grapple with any of those points. The claim here is not that he would not be able to have proper treatment in Syria, but he would not get that far because of the likelihood of suicide which would occur as soon as his removal was confirmed in this country, even before being taken back to Syria.

37. So it seems to me that to say that there is essentially no change in the suicide risk is an irrational conclusion.

38. Mr Edwards, for the Secretary of State, makes an attractive submission, which is not the way in which, on the face of it, the decision letter is put, that the decision-maker would be entitled to give little weight to Dr Hajioff's opinions, and to conclude that they did not give rise to a realistic prospect of success in changing the decision of the Immigration Judge from 2009 and therefore did not amount to a fresh claim, because of the other surrounding circumstances. He prays in aid three matters: firstly, the 18 years between 1990 and 2008 during which the claimant apparently lived without trouble in Syria and was working, albeit sporadically, as a merchant seaman going in and out of the country; secondly, what he calls the sudden apparent deterioration, four months from 0 to 100 in the mental state between his arrival in the UK in September 2008 and his assessment by Dr Moodley in February 2009; and thirdly, he relies on the presence

of family, wife and three children, in Syria. Those three features, he submits, can properly be taken into consideration in weighing Dr Hajioff's evidence and assessing the risk of suicide and whether, overall, it amounts to a fresh claim.

39. The difficulty about that submission is that the first limb of it, the 18 years between 1990 and 2008, was well in the mind of the Immigration Judge in March 2009, and yet the reason why the Immigration Judge rejected the Article 3 claim was because the claimant's mental state had not then reached the critical stage, there was no current suicidal ideation and the treatment was effective.

40. The second point, the sudden apparent deterioration, involves an attack on the validity of Dr Moodley's assessment and suggesting, in effect, that he was having the wool pulled over his eyes by the claimant. That flies against the express acceptance by the Immigration Judge of that assessment, despite its challenge on behalf of the Secretary of State at the Tribunal. There is, and was, no contrary evidence.

41. So the strength of Mr Edwards' argument seems to me to fade because in two out of his three limbs he effectively has to go behind the Immigration Judge's decision of March 2009.

42. My conclusion, therefore, is that there is on the face of it, subject to evidential challenge, a significant difference between the suicide risks set out and identified by Dr Hajioff, and to a lesser extent by Dr Harrington, which were available to the decision-maker in March 2011, and the assessment of risk arrived at by the Immigration Judge two years earlier in March 2009.

43. Does this amount to a fresh claim? Clearly there is the inference, which I draw from the Immigration Judge's decision, that the conclusion as to Article 3 might well have been different had the suicide risk been assessed as higher than it was in fact. But it is not sufficient that the evidence is different, there must also be a realistic prospect of establishing the Article 3 claim, and I have been properly pointed to the authorities which, in summary, make it clear that that is a very high hurdle. It is an unusual and difficult claim, particularly when related not to what the receiving country might do to the claimant, but what the claimant might do to himself if returned.

44. The tests I have in mind are those six principles set out in the case of J v the Secretary of State for the Home Department [2005] EWCA Civ 629 between paragraphs 25 and 31, and the gloss which appears, together with its context, in the case of Y (Sri Lanka) v the Secretary of State for the Home Department [2009] EWCA Civ 362, in particular at paragraph 16. Again, in this ex tempore judgment, I do not propose to incorporate verbatim the relevant passages of those judgments, which I have read in detail and been referred to on more than one occasion.

45. It is clearly a difficult hurdle, but not insurmountable. There must, according to the fifth principle, be a consideration of whether the applicant's fear of ill-treatment in the receiving state upon which the risk of suicide is said to be based is objectively well-founded. The Immigration Judge concluded it was not, and I have concluded that there is no realistic prospect of changing that because of later political activity. If that

fear is not well-founded, that would tend to weigh against there being a real risk that the removal will be in breach of Article 3. But, on the other hand, if that fear is genuine, albeit without an objective foundation, there may be a sufficient risk to qualify under that fifth principle.

46. As I read the judgment of Sedley LJ in Y, the court or the Tribunal would need in particular to look for an independent basis for the fear - that is to say some independent evidence or factual basis for concluding that the fear was genuine, although without an objective foundation. It cannot be that independent basis means an objective foundation, because by definition this test arises in a case where there is no objective foundation. In the present case there is an independent basis in the findings of the Immigration Judge as to mistreatment, albeit a very long time ago, and the conclusion of the Immigration Judge that that genuinely gave rise to a combination of depression and PTSD. Therefore, the diagnostic basis lying behind Dr Hajioff's opinion has been proved, and there is independent support for it. The assessment of risk has to that extent a proper basis.

47. It seems to me that, both looking at the six points and looking at the way in which the Immigration Judge came to the conclusion in March 2009, that the differences in the evidence now available and the material now available is such that it would pass the "somewhat modest" threshold for a fresh claim. It would not be right for me to express any view about how that fresh claim might be decided by an in-country appeal to a Tribunal. It would be for the Tribunal to consider all the evidence and have that tested. The Secretary of State might wish to have some separate psychiatric examination.

48. There are all sorts of possibilities, so I say nothing as to the likely result, only that it seems to me that the changes in the psychiatric evidence and risk assessment are sufficient arguable to undermine the basis of the original decision of March 2009 and open a realistic possibility of success in the difficult Article 3 claim.

49. In addition, and I can take this a little more shortly, the medical evidence now supports a depth of family life which appears to me well in excess of that normally encountered between adult siblings. The rejection of that by the decision letter of March 2011 is contrary to any realistic reading of the current opinion, particularly of Dr Hajioff. Such emotional and psychological dependency well beyond normal brotherly and sisterly love was not raised on appeal or dealt with by the Immigration Judge under Article 8. It is a very unusual case, on the face of it, if the opinion is accepted. There is a very unusual extent of dependency for adults. Clearly one must accept that Article 8 is a limited right and normally immigration control will override it, but I am not prepared to say that this unusual case could not be an exception. It seems to me that there is a realistic possibility of a Tribunal finding in favour of the claimant's Article 8 rights, and that should properly be tested in that way.

50. I have in mind the way in which the defendant put the case through Mr Edwards: in effect, that when properly analysed, that claim is one of dependency on financial and practical support and services, and the purely emotional ties add little to that. That is not really what Dr Hajioff is saying, particularly in his second report: that the claimant and his sister are dependent on each other to a high degree, and that is reflected in other

materials in the bundle I have. Nor does it really reflect the passage in the case of EM (Lebanon) v the Secretary of State for the Home Department [2008] UKHL 64 at paragraph 40. Although there dealing with a factual background totally different, the relationship between mother and son as opposed to the possible relationship if returned between son and a father who had been abusive to the mother and against whom the son felt strongly antagonistic, nevertheless the general proposition holds good that where the evidence shows the bond between two family members is one of deep love and mutual dependence, it cannot so simply be replaced by a new relationship, albeit in this case it would be an existing relationship with wife and three daughters. That principle applies here.

51. Where the balance would be drawn in this case, I am not in a position to say because it would depend upon evidence, but it does seem to me that there is a realistic possibility that the bond between the claimant and his sister is so strong that to disturb it in the circumstances existing here, and with the claimant's medical state as it is, would be a disproportionate interference with the Article 8 rights which it is accepted are engaged in this case.

52. For those reasons, therefore, it seems to me that certainly the decision letter of 31 March 2011 must be treated as irrational and set aside. I suspect that is sufficient for this case, rather than my needing to analyse in detail the prior decision letter of May 2010, which was before the report from Dr Hajioff had been submitted to the Secretary of State. I will hear counsel on whether there are any other matters that I need to deal with expressly.

53. Mr Nettleship, is that sufficient, to deal with the March 2011 decision? That was the one that seemed to me to be key and it is the latest one.

54. MR NETTLESHIP: Yes. Thank you, my Lord.

55. MR EDWARDS: My Lord, I am instructed to ask for permission to appeal.

56. THE DEPUTY JUDGE: Yes.

57. MR EDWARDS: First of all, I am grateful for your Lordship's careful judgment, but we do say that, on the Article 3 issue, there is a point of law of general public importance on what I called the Sedley refinement of the fifth principle, and we say that, on the generality of that, there is the need for further clarification about what that adds to this very interesting issue of when there is an absence of an objective basis, what exactly is to be understood by some independent grounds existing.

58. So, to be brief, we do say that it is a matter of general public importance, in the absence of any other authority on the point, to explore the proper relationship between Sedley LJ's judgment in Y (Sri Lanka) and Lord Dyson's judgment in the J case.

59. On the particular facts of this case, however, there is a further issue which we say makes this case a proper one to explore the matter, which is the long absence of any harassment in the foreign country. We say that there was an exceptionality threshold in

Y (Sri Lanka) which also needs to be explored further and is absent in this case. So I do seek permission to appeal on the Article 3 suicide risk issue.

60. I am also instructed to ask for permission to appeal on the Article 8 issue. Your Lordship saw the Odawey judgment, and it was also said by Rix LJ in the ZB (Pakistan) case. There is very little authority since Kurgathas on exactly what is to be meant by the formula of dependency going beyond the usual ties of family life. This is an interesting case in which to explore that given the short period where family life was developed, given what we do say is a strong element of financial dependency which is part of it, and also the existence and relevance of a family life in Syria. So for those reasons I am instructed to ask for permission to appeal on the Article 3 suicide and Article 8 points.

61. THE DEPUTY JUDGE: Thank you. I am against you on that. It seems to me that the overriding principles are sufficiently clear. Unless the Court of Appeal wish to look at it again, this is a case which depends very much on the facts, and it would not be right for me to grant permission to appeal. It is a matter for the Court of Appeal if you choose to seek permission there.

62. MR NETTLESHIP: My Lord, it falls to me to ask for my costs in this claim, and for a detailed assessment of the claimant's publicly funded costs.

63. THE DEPUTY JUDGE: You are asking for costs against the Secretary of State or just for publicly funded assessment?

64. MR NETTLESHIP: Against the Secretary of State, yes.

65. MR EDWARDS: Is the claimant legally aided, my Lord?

66. MR NETTLESHIP: Yes, the claimant is legally aided as of 3 February. My Lord, I do not know if the notice of issue --

67. THE DEPUTY JUDGE: I had not picked that up. It would not be in the claim form and so forth, would it?

68. MR NETTLESHIP: It is a recent development, and the notice of issue was forwarded to the court on 15 March.

69. THE DEPUTY JUDGE: It is not in the documents I have, but it would not be. If there is an issue of giving notice, that is something that I cannot assist on.

70. MR EDWARDS: I cannot resist the principle of costs. So I have no submission to make on that. What I would say is that it will have to go to detailed assessment because there were a number of difficulties in the origins of this claim, and I needed to amend and various hearings that probably were unnecessary, and the Secretary of State ought to make submissions on that.

71. THE DEPUTY JUDGE: I can see that. I say nothing about it. So you want the usual form of order, that the defendant should pay the claimant's costs subject to detailed

assessment, and the claimant should have the usual order in relation to assessment of the Legal Services Commission costs.

72. MR NETTLESHIP: Yes, the usual order.

73. THE DEPUTY JUDGE: The usual order in standard terms. Yes, I will make those, and will you draw up an order?

74. MR NETTLESHIP: Certainly, my Lord.

75. THE DEPUTY JUDGE: Submit that to the Administrative Court office. If you can agree that with the defendant and submit that, that will ensure that the terms are clear.

76. MR EDWARDS: One more thing, my Lord, I am instructed to ask for your Lordship's judgment expedited, please.

77. THE DEPUTY JUDGE: Is that helpful and necessary in this case? We have taken some time since Nicol J's decision. There is no question of this man going back to Syria in the immediately foreseeable future whatever happens.

78. MR EDWARDS: We need it for the appeal, my Lord, if in fact we do decide to appeal or seek permission to appeal. I am not sure how long it normally takes. It can take three weeks and that is the deadline for seeking permission to appeal. If it were possible to have it quicker than that --

79. THE DEPUTY JUDGE: I do not mind. Presumably, this is something that you need to request and pay for, so I am not committing court costs to that. I do not know whether there is any view from below as to whether that is going to clog up the system.

80. COURT STENOGRAPHER: My Lord, I will have it done by the end of the week.

81. THE DEPUTY JUDGE: It will be done by the end of the week apparently.

82. MR EDWARDS: We are happy to pay for it, my Lord.

83. THE DEPUTY JUDGE: Good. Thank you very much for your assistance. It was an interesting case and I shall watch to see if it goes further.