



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

Appeal Number: DA/00981/2013

**THE IMMIGRATION ACTS**

**Heard at Field House**

**On 15<sup>th</sup> November 2013**

**Determination  
Promulgated**

**On 4<sup>th</sup> December 2013**

**Before**

**UPPER TRIBUNAL JUDGE RENTON**

**Between**

**BABOUCARR MBOOB  
(NO ANONYMITY ORDER MADE)**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr A Akindele of A & A Solicitors LLP

For the Respondent: Mr G Saunders, Home Office Presenting Officer

**DETERMINATION AND REASONS**

**Introduction**

1. The Appellant is a male citizen of the Gambia born on 19<sup>th</sup> June 1991. The Appellant first entered the UK on 31<sup>st</sup> January 2003 and on 29<sup>th</sup> September 2011 he was issued with a permanent residence card as the son of his father, Yusupha Mboob, a citizen of Finland and therefore an EEA national

exercising Treaty rights in the UK. On 12<sup>th</sup> December 2011 having been convicted of the offences of robbery and common assault, the Appellant was sentenced to three years' detention at a Young Offenders Institution. As a consequence, on 28<sup>th</sup> March 2013 it was decided to make a deportation order against the Appellant under the provisions of Regulation 21 of the Immigration (European Economic Area) Regulations 2006. The Appellant appealed that decision, and his appeal was heard by a Panel chaired by Judge of the First-tier Tribunal Flynn (the Panel) on 29<sup>th</sup> August 2013. The Panel decided to allow the appeal for the reasons given in its Determination dated 25<sup>th</sup> September 2013. The Respondent sought leave to appeal that decision, and on 9<sup>th</sup> October 2013 such permission was granted.

### **Error of Law**

2. I must first decide if the decision of the Panel contained an error on a point of law so that it should be set aside.
3. The Panel allowed the appeal because it found that the Respondent had failed to show that there were serious grounds of public policy or public security justifying her decision. The Panel found the Appellant to be generally credible even though he had minimised his responsibility for the offences which he had committed and even though it found not credible two witnesses who had been called to corroborate the Appellant's evidence. The Panel took as its starting point an OASys Report which had assessed the Appellant as being of a medium risk of reoffending and a medium risk of serious harm to the public, although the Appellant's father might be at greater risk. This Report identified three risk factors which might affect the Appellant's future behaviour being peer pressure; cannabis abuse; and family issues. However, the Panel accepted as credible the evidence of a further witness, the Appellant's sister Mrs Davies, with whom it was proposed the Appellant would live. The Panel was satisfied that this arrangement, allowing Mrs Davies to keep a "close eye" on the Appellant, would sufficiently address these risk factors. The Panel found that there was every chance that the Appellant would be successfully rehabilitated and that there had been some form of reconciliation between the Appellant and his father leading to a reduction of the risk that there would be violence between the Appellant and his father. The Panel concluded that there were not serious grounds for concluding that the Appellant represented a present threat to the public or any individual.
4. At the hearing, Mr Saunders argued that the Panel had erred in law in coming to these conclusions. He referred to the grounds of application and argued that the Panel had made inconsistent findings as to credibility. The Appellant had not just minimised his responsibility for his offending. He had sought to distance himself from his conviction and had shown no remorse. The Panel had given inadequate reasons for its decision that the Appellant had every chance of a successful rehabilitation. There was evidence that he had been involved in fights whilst in prison, but there

was no evidence that whilst in prison he had addressed his drugs problem. He had not attended any appropriate courses.

5. After Mr Saunders had made his submission, I indicated to Mr Akindele that I found no error of law in the decision of the Panel and therefore it was not necessary for me to hear from him.
6. My reasons for the finding of no error of law are as follows. I find the Panel's finding as to the credibility of the Appellant to be one open to it on the evidence before it and which it fully explained. It may be the case that the Panel found that the Appellant's evidence was not corroborated by that of two of his witnesses, but corroboration is not essential for a finding of credibility. I find the Respondent's arguments as to credibility to be no more than a disagreement with the finding of the Panel. In any event, the Panel's finding that the Appellant did not represent a genuine, present and sufficiently serious threat was mainly based upon the contents of the OASys Report and the evidence of Mrs Davies as to how she proposed to deal with the risk factors referred to in that Report. The Respondent has not argued before me that the Panel's finding as to the credibility of Mrs Davies was flawed. Therefore the decision of the Panel that there was every chance for a successful rehabilitation of the Appellant is founded upon the evidence and cannot be described as perverse. Again I find the arguments of Mr Saunders to the contrary to be no more than a disagreement with the Panel's decision.

### **Decision**

The making of the decision of the First-tier Tribunal did not involve the making of an error on a point of law.

I do not set aside the decision.

### **Anonymity**

The First-tier Tribunal did not make an order pursuant to Rule 45(4)(i) of the Asylum and Immigration Tribunal (Procedure) Rules 2005 and I do not do so.

Signed

Date

Upper Tribunal Judge Renton