



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: AA/15824/2009

THE IMMIGRATION ACTS

Heard at Manchester  
On 5<sup>th</sup> March 2014

Determination Promulgated  
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Before

UPPER TRIBUNAL JUDGE MARTIN

Between

MR SUREN KUMAR KRISHNAN  
(ANONYMITY DIRECTION NOT MADE)

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Miss S Jegarajah (instructed by Andrew Jackson & Co)  
For the Respondent: Miss C Johnstone (Home Office Presenting Officer)

DETERMINATION AND REASONS

1. The Appellant is a national of Sri Lanka. His appeal comes before me via a lengthy route.

2. The history of this case is as follows. The Appellant arrived in the UK with a valid student visa on 19th September 2006. That visa was due to expire on 31st October 2009. On 4th September 2009 the Appellant claimed asylum. That application was refused on 18th November of that year. He lodged an appeal which a Judge of the First-tier Tribunal dismissed on 1st March 2010. Permission to appeal to the Upper Tribunal was granted but a Deputy Upper Tribunal Judge upheld the decision of the First-tier Tribunal on 25 September 2012. Permission to appeal to the Court of Appeal was initially refused by the Upper Tribunal and by the Court of Appeal. However it was granted at an oral hearing on 4th June 2013. On 21st October 2013 the Court of Appeal sealed a Consent Order to the effect that the original determination contained material errors of law and remitted the appeal to the Upper Tribunal for reconsideration.
3. Because of its chequered history, the matter was listed for a For Mention Hearing before me and Upper Tribunal Judge McKee on 29th November 2013. We directed the appeal be listed before me at Manchester and we also made directions as to the filing of evidence. The appeal was listed for 13<sup>th</sup> February 2014.
4. For reasons unconnected with either party, the matter could not proceed on 13th February and thus came before me on 5th March 2014.
5. On that occasion I had the Respondent's bundle and I also had a small bundle provided by the Appellant's representatives and a skeleton argument prepared by Miss Jegarajah.
6. During the course of the hearing I also admitted into evidence some earlier medical reports that, although not included in the bundle provided to me for the purposes of the hearing, had been previously in evidence before the earlier Tribunals and were thus on the Home Office file.
7. The Appellant in this case is of Tamil ethnicity and born on 4th September 1988. His claim is that his older brother was a fighter with the LTTE working with Colonel Ramesh. At the instigation of his brother he was taken from school in 2000 and forced to work as a child soldier until he was released in 2004. He was then detained by the Karuna group in 2004 who were looking for his brother and Colonel Ramesh. During his detention he was beaten and raped. He escaped when the LTTE attacked in 2005 and then stayed with an aunt in Colombo. In Colombo he was stopped by the police in August 2005 and detained by the Terrorist Investigation Department until July 2006. They suspected that he had been a bomber in Colombo and during his detention he was beaten, tortured and raped. He was released when his aunt paid a bribe and on 9th September 2006 he left Sri Lanka for England. Once in the UK he heard that his parents had been killed by the authorities looking for him and in August 2009 he saw a television documentary about Sri Lanka in which he saw

his brother shot by government forces. He fears the Sri Lankan government and the Karuna group if returned to Sri Lanka.

8. It was established at the outset of the hearing that the first issue is the Appellant's credibility, which is challenged by the Secretary of State. If incredible that is the end of the matter so far as his asylum claim is concerned. If credible in terms of his asylum claim the question is then whether he will be at risk on return bearing in mind the country guidance case in relation to Sri Lanka, GJ and others (post-civil war: returnees) Sri Lanka CG [2013] UKUT 00319 (IAC) and the risk categories named therein. I am also aware that GJ is before the Court of Appeal and accordingly the list of risk categories in GJ is not exhaustive and risk to the Appellant must be assessed separately and outside the stated GJ risk categories.
9. The Appellant did not give oral evidence before me because of the fragile state of his mental health. He has been diagnosed with Paranoid Schizophrenia as well as Post Traumatic Stress Disorder (PTSD) and has had a number of hospitalisations. There are several reports in relation to his mental health the most complete and recent being a report by Dr H Pears, the Consultant Psychiatrist responsible for his care and dated 5<sup>th</sup> February 2014. There is also a report from his social worker and care coordinator, Mr Simon Keat dated 5<sup>th</sup> February 2014. Both reports make clear that the Appellant's mental state is of such fragility and susceptibility to relapse that he cannot give oral evidence about his claim. I accept those opinions as they come from professionals working with the Appellant. Indeed, I also agree with Miss Jegarajah's view that it was also inappropriate for the Appellant to be in the hearing room while his claim was discussed. The reason for my saying this will be apparent from what follows.

#### **Submissions on behalf of the Secretary of State**

10. Miss Johnstone, for the Secretary of State challenged the credibility of the Appellant's claims on the basis of inconsistencies in his claim. He has variously claimed to have been detained for two months in 2005 and at his SEF interview for a period of 12 months. He has variously claimed to have been detained without being able to contact his family and to have been able to contact his family.
11. She relied on the fact that the Appellant obtained a student visa which suggested he had no mental health issues when in Sri Lanka. She also noted that the Appellant claimed to have been threatened and told to leave Sri Lanka within a matter of days and yet he waited for a student visa to be issued. He provided evidence to the Entry Clearance Officer in order to get that visa and attended the Embassy for that purpose. If he had been in the peril he claimed he would have been unable to do so and would have left at the first opportunity legally or illegally.

12. She noted that he left Sri Lanka using his own passport some months after the threats.
13. She noted the Appellant's claim to have witnessed his brother's death on a TV documentary but despite that being a documentary by a major TV station in the UK (Channel 4) it has never been made available or his brother identified.
14. She referred to, what she described as a major credibility issue; the inconsistency in the Appellant's claim about his parents. She referred to the medical report of Dr Javiad in December 2009. He it was who first diagnosed PTSD. In his report he said that the Appellant told him that he had seen his mother, father and siblings shot in Sri Lanka. However, in his interview at question 143 and paragraph 24 of his asylum statement of 7th October 2009 he said he found out about his parents deaths when he was in the UK. Miss Johnstone pointed out that the medical reports did not deal with that contradiction.
15. She acknowledged that the Appellant had suffered several relapses and noted that the reports indicated various stressors. However, she submitted that those stressors were identified as being, for example, cessation of his benefits, poor accommodation and his appeals being dismissed. She indicated that just because he had a relapse when his appeal was dismissed did not mean that his claim was true. It could equally have been simply caused by the appeal itself being dismissed or by matters such as accommodation and NASS support.
16. She pointed out that although the Appellant has a diagnosis of Schizophrenia the experts do not say whether he suffered from this condition in Sri Lanka.
17. She referred to the most recent medical report and the prognosis contained therein indicating that there were a number of stressors said to trigger a relapse and that these were accommodation, NASS support and uncertainty about his status. These stressors, she argued would not be present in Sri Lanka.
18. So far as the availability of psychiatric treatment in Sri Lanka is concerned, Miss Johnstone relied upon the 2012 COIS report and the attached documents from non-governmental organisations indicating that treatment was available in Sri Lanka.
19. With regard to the Country Guidance case of GJ she argued that even if the Appellant was credible he did not come within any of the risk categories. It is a considerable time ago that that he was detained by the authorities who believed him to be a bomber and there is no evidence of any arrest warrants or convictions in his absence. She said that there is no evidence that he is on the stop list. He is simply a Sri Lankan national returning from the UK. He would only have a problem upon return if he was perceived to be a current risk and

she pointed to the fact that he left legally with a visa to come to the UK eight years ago as a student and there is no evidence that he is of any interest to the authorities now.

### **Submissions on behalf of the Appellant**

20. Miss Jegarajah provided me with what she described as a skeleton argument but what was in reality a written submission and took me through the asylum interview and the medical evidence in her submissions.
21. A major issue argued by Miss Jegarajah with considerable merit is that at no time in the history of this case has proper consideration been given to the Vulnerable Witness Guidance and it should have been. In short she submitted that if the Tribunal had given proper consideration to the Appellant's situation as a vulnerable witness that would have had an impact on the credibility assessment and ought to have led the Tribunal to find his claim credible. She submitted that the Appellant in this case is someone who suffers serious delusions and believes in ghosts.
22. Having submitted that the Appellant ought to be found credible she then went on to make submissions with regard to risk on return.
23. In terms of the Appellant's specific profile she referred to the fact that his parents had been killed when the authorities were looking for him, which indicated that he was of significant interest. She referred to the fact that his brother had a significant profile working as he did for Colonel Ramesh. The fact that the Appellant was detained by the TID indicated he was of significant interest.
24. She pointed out that it had been a condition of his release that he was to leave the country. He was not released because of a lack of interest in him but because of a bribe and as a direct result of his release and a false allegation about his beating people up in order to escape, his parents were killed.
25. In terms of his having left Sri Lanka using his own passport he explained at interview that an agent went with him to the airport and she referred me to paragraph 146 of GJ wherein the evidence of Mr Punethanayagam to the Upper Tribunal is set out. This included:-

"The bribery is very common in the IDP camps as well as the detention centres from which even known LTTE leaders have managed to escape on payment of bribes. Hence it cannot be argued that only people of low interest to the authorities are able to secure their release through a bribe."

"It is possible to leave the country using bribery with the help of an agent. The security officers and immigration officers at the international airport are no exception to the widespread bribery and corruption in Sri Lanka. It is always

possible for a person to use influence or bribery to get through the airport without being detained as an LTTE suspect. I have been contacted by approximately 30 clients who managed to flee the country via the international airport whilst in the adverse interest of the authorities."

26. She referred me to question 63 is the asylum interview where the Appellant made clear that his problems began in 1999 and question 65 where he had indicated that he spent a year and a half at the LTTE camp and that it was his brother who facilitated his recruitment. She referred to the references in the interview to Colonel Ramesh and his links to his brother. His brother was therefore working directly under Colonel Ramesh and would therefore have a significant profile. The fact that the Appellant had been transferred to the TID meant that he was of significant interest to the authorities and the fact that they had suspected him of planting bombs.
27. Miss Jegarajah submitted that the Appellant's brother's actual situation and his perceived position would put him at risk on return. It would be on record that he had attacked officers during his escape (although untrue) and the authorities had in fact murdered his parents. He will continue to be of interest to the authorities due to his proximity to key figures. His was a targeted capture.
28. She submitted that the medical reports repeatedly refer to the Appellant's claims about torture and ill treatment as well as the murder of his family and do so throughout.
29. She referred me to the most recent medical report of Dr Pears which incorporated a full review of his previous medical history identifying all the evidence taken into account. She referred to what had been said in his asylum claim and reminded me that the Appellant is someone who has varying degrees of lucidity as referenced by the number of relapses. He clearly responds well to medication so that he is discharged. He therefore has periods of lucidity. He has been diagnosed with PTSD and major psychotic episodes which appear to be leading to a concluded diagnosis of Paranoid Schizophrenia.
30. She submitted that so far as the Appellant's mental health and Article 3 of the ECHR is concerned she relied on GL in particular paragraphs 450 to 457 wherein the Upper Tribunal analysed the March 2012 COIS and other materials and found that in respect of the Appellant before them, whose situation Miss Jegarajah argued was less serious than that of the current Appellant, removal would be a breach of the U.K.'s obligations under Article 3.

## **Findings**

31. The first hearing, to the First-tier Tribunal, took place in March 2010. On that occasion the Appellant gave oral evidence. The Judge noted at paragraph 12(i) that the Appellant "claimed" he had developed mental illness after learning of his parents' murders by the Karuna in September 2006 and in the following

paragraph that he “claimed” to have twice attempted to commit suicide by taking an overdose of prescribed psychotic medication.

22. The Judge then referred at paragraph 17 of the determination to Dr Javiad’s report of 29th December 2009. The Judge records that the Appellant told the Dr that he developed mental health problems because he witnessed the killing of his parents in Sri Lanka. At the hearing he told the Judge that he had not witnessed any killing but in his dreams he saw his parents being killed and that the Dr had made a mistake in the report. While that determination makes clear that the Judge was aware of the Appellant’s mental health problems it is not clear that she took those into account in her assessment of credibility. It is clear that here was no mention of the Vulnerable Witness Guidance. It is apparent that that did not feature either when the matter came before the Upper Tribunal previously.
23. The Child, Vulnerable Adult and Sensitive Appellant Guidance is an important document that is all too often overlooked by representatives and Judges.
24. At paragraph 1 the Guidance indicates that it covers both Appellants and witnesses and has been developed for the First-tier Tribunal and the Upper Tribunal where oral evidence is heard. It follows the Practice Direction issued by the Senior President of Tribunals regarding child, vulnerable adult and sensitive witnesses issued on 30th October 2008. The Practice Direction deals primarily with the way in which a child or vulnerable or sensitive witness should be aided to give their evidence. The Guidance goes beyond that. At paragraph 3 the Guidance states:-

"The consequences of such vulnerability differ according to the degree to which an individual is affected. It is a matter for you to determine the extent of an identified vulnerability, the effect on the quality of the evidence and the weight to be placed on such vulnerability in assessing the evidence before you, take into account the evidence a whole."

25. At paragraph 14 the guidance states:-

"Consider the evidence, allowing for possible different degrees of understanding by witnesses and Appellant compared to those who are not vulnerable, in the context of evidence from others associated with the Appellant and the background evidence before you. Where there were clear discrepancies in the oral evidence, consider the extent to which the age, vulnerability or sensitivity of the witness was an element of that discrepancy or lack of clarity.

26. At paragraph 15 the guidance indicates that:-

“the decision should record whether the Tribunal has concluded the Appellant (or a witness) is a child, vulnerable or sensitive, the effect the Tribunal considered the identified vulnerability had in assessing the evidence before it and thus whether the Tribunal was satisfied whether the Appellant had established his or

her case to the relevant standard of proof. In asylum appeals, weight should be given to objective indications of risk rather than necessarily to a state of mind”.

27. It is clear therefore that in a case such as this one wherein the Appellant is severely afflicted by mental illness that rendered him unable to give evidence, he is vulnerable and that may impact on his evidence.
28. With regard to this Appellant Dr Pears states at paragraph 2.1 that:-

"There is no history of mental illness within his family. At the age of 12 he reports been forcibly recruited by Tamil Tigers and trained in guerrilla warfare. During this period he was subject to physical and emotional abuse. At the age of 16 he was under arrest for one month and he reports being tortured and raped on multiple occasions. He described having seen his family being murdered by Karuna forces and managing to escape as an aunt was able to pay a ransom. He fled the war zone and contacted family friends in the UK, arriving in 2006. Initially I believe he stayed in London with family friends. A year later he began having symptoms of mental illness, including talking to himself, responding to visual and auditory hallucinations having flashbacks to scenes of his family's murder. He began behaving bizarrely in response to his hallucinations and this alleged damage led to damage the property of his host's house. Feeling unable to cope with his behaviour his host asked him to leave and he was given a ticket to Liverpool where he arrived in 2009"

29. The report goes on at paragraph 2.2 to state that:-

"He was found on 7th December 2009 slumped against a pillar at Liverpool Lime Street Station, wearing a suicide note. At hospital he was assessed by a mental health practitioner and found to be experiencing auditory and visual hallucinations telling him to join his family in heaven and delusions of control and persecutory ideation that people were trying to kill him. He was admitted for treatment that day and during his admission given antipsychotic and antidepressant medication. A provisional diagnosis of post-traumatic stress disorder with psychotic symptoms was given. Due to a good response to treatment he was discharged to the community team who noted that he expressed florid psychotic symptoms and auditory hallucinations of the voice of his deceased mother and brother”.

30. At 2.4 the Dr states:-

"It was felt his psychosis had likely been triggered by the extreme trauma which he alleged."

31. At Paragraph 2.6 the Dr refers to the Appellant having input from the Care Programme Approach Framework whereby his care in the community is overseen by a Consultant Psychiatrist and a Care Coordinator which in his case was a Community Mental Health Nurse. He also received input from a Clinical Psychologist but tellingly at paragraph 2.7 the Dr states:-



"Unfortunately focus on his traumatic experiences led to a worsening of symptoms and work was focused on coping strategies rather than traumatic events therefore"

32. At paragraph 2.9 the Dr refers to an occasion when there was a further deterioration in March 2011 triggered by him trying to intervene in a fight between two other men and then being subsequently arrested. He was put in a cell and stripped, which heightened his memories of previous traumatic experiences, leading to acute agitation requiring a further inpatient admission.
33. Dr Pears took over his treatment in January 2013 when he was transferred to her team. She had met with him three times since then but had also undertaken considerable discussion of his case with his care coordinator, who is currently Simon Keat, a social worker.
34. The Dr opines that his symptoms are consistent with a Schizophreniform of psychosis, likely Paranoid Schizophrenia alongside PTSD. The Dr indicates that he displays formal thought disorder particularly at times of stress and also displays negative symptoms such as apathy, incongruous or blunted affect, social withdrawal, difficulty in independently initiating and planning purposeful action alongside some disorganisation. He displays symptoms associated with PTSD which include high levels of anxiety, nightmares, flashbacks, hyper arousal and avoidance of situations which trigger memories of his trauma.
35. The Appellant's psychosis is being treated with antipsychotic medication but remains prominent and he also has regular input from his Care Coordinator. The Dr indicated he will continue to require medication and monitoring for some time; likely years. The Dr opined that his prognosis is severely curtailed by his current position namely inadequate and possibly dangerous accommodation, his financial position and the most severe of all, uncertainty with regard to his asylum status. The Dr opined that he is a suicide risk and return to Sri Lanka would have a detrimental effect on his mental health with a high likelihood of deterioration and associated high suicide risk.
36. The Dr also gave her opinion that he was not fit to give evidence in court. That is unsurprising given the effect of the Clinical Psychologist's work on him when asked to recall traumatic events. The Care Coordinator shared the view of the Dr.
37. I was also provided with a report with regard to the question of the credibility and consistency of the Appellant's account. That was a report dated 21<sup>st</sup> September 2010 by Dr Brigitta Bende, a Consultant Psychiatrist in early interventions and psychotherapy. That report discusses the findings of Dr Javiad in his report of 29<sup>th</sup> December 2009 and in particular the evidential contradictions. Dr Bende recites the Appellant's history as given to Dr Javiad by the Appellant including that when he saw him in July 2010 he thought he was

very unwell, very vulnerable and struggling with a depressive disorder which was long-standing. He told the Dr that he had last felt well and happy some 10 years before. With regard to contradictions Dr Bende says:-

"For psychiatric purposes, it may not be particularly important whether a patient has seen his whole family killed or only some members. What is important is that a patient is traumatised and mentally ill. From reading the notes, it seems to me that Mr Kumar has predominantly told people that his family were killed by government forces and that he has visual hallucinations, flashbacks and/or nightmares regarding these events.

My sense from reading the notes is that Mr Kumar has not contradicted himself. Medical notes cannot be seen as evidence of facts, but are a record of a Psychiatric Consultant and are affected by Practitioner's memory as well as that of the patient. I hope this helps in understanding why our case notes may appear to lack accuracy of facts that a court would wish to establish."

38. That particular report seems to record only that the Appellant had seen his family killed and does not mention his being tortured. In response to this I was referred by Miss Jegarajah to the report of Dr Javiad of 29th December 2009 in which he recites the Appellant having told him about being detained, tortured and raped in addition to seeing his family murdered. He also opines on page 3 of the report on the basis of the history given that:-

"It seems most of his symptoms stem from the alleged abuse he suffered as a teenager in Sri Lanka. This includes seeing his family allegedly being murdered by the Sri Lankan government. Unfortunately owing to the nature and location of the alleged incidents it is not possible to get any collateral information and Mr Kumar remains our only source of history."

39. I was provided with an extract from the Appellant's medical records. This had not been previously produced and Miss Johnstone objected to its inclusion. I nevertheless allowed it into evidence in the interests of justice and to ensure as complete a picture as possible regarding the Appellant's state of mind. The notes are from MerseyCare NHS Trust, Broadoak Unit which is an inpatient unit where the Appellant was being treated and is dated 1st October 2009. There is a record that the Appellant indicated that he was a victim of war crimes, had been repeatedly tortured and raped in prison and that the government had killed all his family and that he is the only remaining member except his aunt who paid for him to escape to the UK.
40. It is also significant that the first of the Appellant's asylum interviews was curtailed by the interviewer who was concerned about the Appellant's mental state. The substantive asylum interview that eventually took place seems, from the responses by the Appellant, to have taken place on a day when he was feeling well as he appears to have given detailed and coherent responses.

41. There is no doubt in this case that the Appellant has been contradictory in his claims. If the Appellant was mentally fit I would find his claim lacking in credibility because of the very significant contradictions. His parents were either killed in front of him in Sri Lanka or he was told of their murder after he came to the UK. He either saw his brother being killed in Sri Lanka or he saw his brother being shot on a TV documentary. He was either detained for two months or significantly longer. This Appellant however is very far from being mentally fit. It is clear that he suffers both auditory and visual hallucinations. He is extremely fragile and it does not take a great deal to trigger a relapse. He has taken overdoses of his medication on more than one occasion once when he was found slumped at Lime Street Station in Liverpool. He is clearly a very disturbed and vulnerable individual. While his accounts have been inconsistent in the detail he has throughout been consistent about being forced to fight with the LTTE as a child by his brother who himself was a fighter, but a willing one. He has been consistent that he has been abused, tortured and raped and he has been consistent about his parents having been murdered and his brother also. I am prepared to accept that to somebody in the Appellant's state of mind whether he himself witnessed the deaths or was told about them and they appear in nightmares and flashbacks does not affect the basic premise that they were killed by the government.
42. I find particularly persuasive in this case in terms of the Appellant's credibility, his reaction to probing by the clinical psychologist and his reaction to being detained in a police cell. I find that they assist in persuading me that the Appellant's account of ill treatment and torture in Sri Lanka is true. I am also mindful of the low standard of proof.
43. In terms of the Vulnerable Guidance, I find that in this case the Appellant is a vulnerable witness because he suffers from serious mental health problems. I have taken those matters into account when assessing credibility and thus do not find against him on the basis of inconsistencies in his evidence.
44. I have not ignored the fact that he travelled to the UK with a student visa and one would assume therefore at that time was not displaying signs of mental illness; the Entry Clearance Officer seemingly had no concerns as to his ability to study. However, it is also clear that despite arriving with a student visa he has not in fact studied which lends credence to his argument that the purpose of his coming to the UK was fleeing persecution, not to study.
45. I have not ignored either the Secretary of State's argument that if he was in danger as claimed he would not have waited for a student visa but would have left the country immediately by illegal means if necessary. I am not in a position to say how easy an illegal exit would be. I am not in a position to say whether an illegal exit using an agent would be more expensive than a legal exit with a student visa. I am not in a position to say which is more risky. Without

evidence of those matters I cannot find his obtaining a student visa an adverse credibility point.

46. Bearing in mind the low standard of proof therefore I find the Appellant credible and accept his claims as to what happened to him in Sri Lanka.
47. Having found the Appellant credible I now need to decide whether his profile would put him at risk on return.
48. I have considered carefully Miss Jegarajah's submissions that he would be at risk because of his links to high profile people and the gravity of their concerns about him when he was detained by the TID. I have also considered carefully her submission that he will be on a stop list and the reference in GJ to the ability of persons, even those of significant interest, to exit lawfully through the airport due to the level of corruption in Sri Lanka. However, I am unable to agree that the Appellant would be at risk on return today.
49. The Appellant was an unwilling fighter for the LTTE as a child. Due to his family' activities and his brother's in particular he was suspected of more serious matters by the TID. However, all of those matters took place at least 8 years ago. They took place before matters settled to a large extent in Sri Lanka and before the authorities adopted their present view that only those perceived to be working currently against the government or those with high profiles and with outstanding warrants or convictions would be of interest. It is clear that the current situation is that the authorities in Sri Lanka are interested only in those persons and are no longer interested in people who simply were members of or fighting for the LTTE. There is no evidence that the Appellant has had any warrants issued against him or any convictions in his absence. I appreciate that I am not entitled to call for corroboration in such cases but the fact remains that he still has an aunt in Sri Lanka and if he was wanted in that regard, evidence could have been obtained. It is not therefore credible that the Appellant's name would appear on a stop list.
50. The Appellant left Sri Lanka as a very young adult and is now considerably older. On return now he would be no more than a Sri Lankan national who travelled to the UK as a student and is now returning. He is therefore, I find, not someone who would be stopped and questioned at the airport or thereafter in the community.
51. Accordingly, notwithstanding my positive credibility findings I dismiss the Appellant's asylum appeal.
52. That however is not the end of the matter. It is abundantly clear from what I have said above that this Appellant has very serious mental health issues and has attempted suicide more than once. Paranoid Schizophrenia and PTSD are major mental disorders. It is quite clear that the cause of and triggers for his

illness are what happened previously in Sri Lanka. I have the expert evidence of a Consultant Psychiatrist that if returned to Sri Lanka he is likely to be a high suicide risk. I refer to GJ and the sections relied upon by Miss Jegarajah. This Appellant is as ill, if not more so, than the third Appellant in GJ. The Tribunal in GJ had the same country information as I had and nevertheless came to the conclusion at paragraph 456:-

“We note that the third Appellant is considered by his experienced Consultant Psychiatrist to have clear plans to commit suicide if returned and that he is mentally very ill, too ill to give reliable evidence. We approach assessment of his circumstances on the basis that it would be possible for the Respondent return the third Appellant to Sri Lanka without his coming to harm, but once there, he would be in the hands of the Sri Lankan mental health services. The resources in Sri Lanka are sparse and are limited to the cities. In the light of the Respondent’s own evidence in her OGN that there that there are facilities only in the cities and that they "do not provide appropriate care for mentally ill people" and of the severity of this Appellant’s mental illness, we are not satisfied on the particular facts of this appeal, that returning him to Sri Lanka today complies with the United Kingdom's international obligations under the ECHR”.

53. I can do no better than adopt that reasoning of the Upper Tribunal in GJ. I agree with Miss Jegarajah that this Appellant’s mental state is worse and the risk greater. It is clear that this particular Appellant has been very needy over the years in terms of his need for psychiatric care and the necessity for prompt reactions to his relapses. He has attempted suicide. I allow the Appellant’s appeal on Article 3 grounds.

Signed

Dated 7<sup>th</sup> March 2014

**Upper Tribunal Judge Martin**