



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

Appeal Number: IA/11469/2014

**THE IMMIGRATION ACTS**

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

**Decision & Reasons  
Promulgated  
On 20 February 2015**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE DAVID TAYLOR**

**Between**

**SUBROTA DAS  
(ANONYMITY DIRECTION NOT MADE)**

Appellant

**and**

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

Respondent

**Representation:**

The appellant appeared in person

For the Respondent: Ms A Holmes, Home Office Presenting Officer

**DECISION AND REASONS**

1. The appellant, a 26 year old citizen of Bangladesh, has appealed, with permission, against the decision of First-tier Tribunal Judge Clapham (promulgated 16 October 2014). Judge Clapham dismissed the appellant's appeal against the Home Office's refusal of his application for leave to remain under Article 8 of the ECHR for reasons falling outside the provisions of the Immigration Rules.
2. The basis of the appellant's claim is that he is presently undergoing prescribed treatment for heroin addiction, that the treatment is currently

successful and had (at the First-tier Tribunal hearing) only another seven months to run, and the quality of the treatment would not be the same in Bangladesh.

3. Permission to appeal was granted by First-tier Tribunal Judge Kelly on 26 December 2014. The judge found to be arguable the grounds claiming that the UK had assumed responsibility for the appellant's treatment for a further period of seven months.
4. Paragraph 1 of the grounds appears to argue that the appellant claims the benefit of Article 3 "because of the well-founded fear of persecution of him if he were to return to his country of origin". But at paragraph 9 of the judge's decision it was clear that the appellant's representative acknowledged that Article 3 was not in issue but argued only that the Article 8 discretion should have been exercised differently "as treatment in Bangladesh was rudimentary".
5. The remaining grounds do no more than repeat submissions and the law that were put to the First-tier Tribunal Judge and essentially to disagree with his findings.
6. In my judgment, the decision of the First-tier Tribunal Judge, although brief, is adequate and reveals no error of law. I cannot disagree with his findings at paragraphs 12 and 13 where he said the following:
  - "12. I agree that treatment would be available in Bangladesh. It might be that the treatment would not be of the same standard but that is not the issue. I cannot of course say whether the appellant's removal would result in a disruption of his treatment. That might depend upon when the removal takes place. It might also depend upon how quickly the appellant's treatment could be re-commenced in Bangladesh.
  13. In the whole circumstances, however, while I can understand why the appellant would wish to have his medical treatment completed in the United Kingdom, I do not consider that the United Kingdom would be in breach of its obligations under ECHR if the appellant were removed. I do not consider that removal could be said to be disproportionate. I uphold the contents of the reasons for refusal letter."
7. At the appeal hearing before me the appellant Mr Das told me that he only needs five more months to finish his treatment. He sees his GP regularly and the dosage of drugs that he is given by his GP is reducing every month; after a further five months the treatment will be completed and he believes he will then be free of addiction. He is then willing to return to Bangladesh.
8. I explained to him that none of that disclosed any error of law on the part of the First-tier Tribunal Judge. It is only the respondent who has discretion in such a case, in particular as to the timing of removal.

## **Notice of Decision**

9. There was no error of law in the decision of the First-tier Tribunal and that decision shall stand.
10. No anonymity direction was sought and none is made.

### **Recommendation**

11. I am, however, taking the unusual step of making a recommendation to the respondent. The appellant must understand that my recommendation is not binding on the respondent in any way but, having heard the evidence of the appellant in person, I am satisfied that the appellant is reaching the end of successful medical treatment which will, hopefully, cure his heroin addiction. He now has less than five months before that treatment is ended. I would express the hope that the respondent, in these compassionate circumstances, will not seek to remove the appellant before the end of June 2015.

Deputy Upper Tribunal Judge David Taylor  
19 February 2015