



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

Appeal Number: IA/49781/2014

**THE IMMIGRATION ACTS**

**Heard at Glasgow  
on 21 December 2015**

**Determination issued  
on 6 January 2016**

**Before**

**UPPER TRIBUNAL JUDGE MACLEMAN**

**Between**

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

Appellant

**and**

**FREDERICO RICARDO DAMASO MARTINS**

Respondent

Representation:

For the Appellant: Mrs M O'Brien, Senior Home Office Presenting Officer

For the Respondent: Miss L Beats of Bruce Short, Solicitors

**DETERMINATION AND REASONS**

1. The parties are as described above, but for continuity and ease of reference the rest of this determination refers to them as they were in the First-tier Tribunal.
2. The SSHD appeals against a determination by First-tier Tribunal Judge Balloch, allowing the appellant's appeal against deportation to Portugal under the Immigration (European Economic Area) Regulations 2006.

3. The substantive points in the SSHD's grounds are at paragraphs 6 - 8:

[6]: perfunctory analysis and insufficient reasons for finding that the appellant does not present a threat in terms of the regulations; inadequate reasoning on integration into the UK, the applicant having been released only in October 2014; inadequate and inconsistent reasoning on why his rehabilitation would be hampered in Portugal;

[7]: error on no further offending, in light of a caution in 2003 [not 2013, which is a slip in the grounds] and of incidents shortly after conviction [at the beginning of detention for mental health reasons in 2004];

[8]: not taking account of risk if medication not taken, possibility of substance abuse triggering relapse, and history of absconding [travelling to Edinburgh in 2012 when subject to restrictions on his residence in Aberdeen].'

4. The appellant's rule 24 response submits that the reasoning is not perfunctory, reading the determination fairly and as a whole; that the various incidents were taken explicitly into account, and subsequent improvement in behaviour noted; and that the First-tier Tribunal reached a conclusion open to it, supported by reasons which are adequate, under reference to *Mukarkar* [2007] Imm AR 57 and *Shizad* [2013] UKUT 00085.
5. Mrs O'Brien argued that although the determination is long on detail it is short on reasoning. She stressed the aspects of the evidence tending to show that the appellant complies with medical treatment only because he has to and not because he accepts that he needs it, that his recovery might be regarded as tenuous, and that he has been only gradually and recently been discharged from detention, so that his integration could not have gone very far. She submitted that the findings on low risk were legally erroneous and the findings on integration perverse.
6. Miss Beats in response referred to the determination to identify reasoned conclusions on each aspect challenged in the grounds.
7. I do not think it is necessary to go over the determination point by point. It speaks for itself. The SSHD's grounds and submissions articulate once again that side of the case, making some reasonable points which might have led to a decision the other way, but such is not the present issue. Those points are not left unanswered in the determination. They are all dealt with, not just by recitation and an arbitrary lurch to one side, but after careful balancing and with reasons for eventually coming down on one side rather than the other - see in particular paragraphs 131 and 132. The grounds are no more than disagreement and reassertion of the SSHD's case.

8. The case was plainly a difficult and finely balanced one, but the grounds do not show that the judge's resolution of it is undermined by any legal error.
9. The determination of the First-tier Tribunal shall stand.
10. No anonymity direction has been requested or made.

A handwritten signature in black ink, appearing to read "Hugh Macleman". The signature is written in a cursive style with a large, stylized initial 'H'.

Upper Tribunal Judge Macleman

21 December 2015