Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: DA/00631/2014

THE IMMIGRATION ACTS

At Royal Courts of Justice/Field House
On 07 September 2015 and 27 November 2015

Decision and Reasons Promulgated
On 23 December 2015

Before

Upper Tribunal Judge John FREEMAN

Between

Shaquille Navardoe SMITH

Appellant

and

Secretary of State for the Home Department

Respondent

Representation

For the appellant *Alasdair Mackenzie* (counsel instructed by Owens Stevens)
For the respondent Mr Ian Jarvis

RULING AND DIRECTIONS

1. This is an appeal, by the respondent to the original appeal, against the decision of the First-tier Tribunal (Judge Anthony Higgins), sitting at Taylor House on 9 February 2014, to allow a deportation appeal by a citizen of Jamaica, born 28 October 1993.

2. History The appellant was brought to this country by his mother on 26 June 1994, on a visit visa, followed by a student visa, which expired on 31 October 1995, and, apart from two visits to Jamaica, has stayed here ever since, without leave till he was given indefinite leave to remain (with his mother and half-brother) on 23 July 2008. In 2012 he committed two separate offences: on 23 April he supplied some crack cocaine to an undercover police officer, and, apparently while on bail for that, was involved in a violent disorder on 3 September. On 17 June 2013 he was sentenced to 30 months' detention in a young offenders' institution [YOI] for the drugs offence, with 3 months consecutively for the

violent disorder. Credit totalling 230 days was to be given for the time he had spent on remand in custody or under curfew, but he was still in detention when a notice of intention to deport was served on him on 24 September and a deportation order on 5 March 2014, against which he appealed.

3. For some reason the appellant was released, rather than detained pending deportation, at the end of the custodial period of his sentence, and it was then that he formed a relationship with J G, a British citizen who at the date of the first-tier hearing was expecting his child in August this year. They were not living together, as the appellant's licence conditions required him to live with his mother. On 7 September, when this case first came before me, there was no further information about the birth of the child, as not only did the appellant not answer the notice of hearing in the Upper Tribunal, but Mr Mackenzie was unable to make telephone contact with his solicitors when he failed to appear. Later he explained, through them, that he had come to the Royal Courts of Justice, it would seem after I had had the case called several times; but he had been put off by the apparently closed court.

4. **Law and Rules** The potentially relevant legislation and Rules are as follows: sections 117B and C were inserted in the Nationality, Immigration and Asylum Act 2002 by the Immigration Act 2014 and paragraphs 398 – 399A appear in the current Immigration Rules. As they are relatively new, and not so simple, it is best to set them out in full, so far as they have any bearing on either the error of law argument or what follows.

117B Article 8: public interest considerations applicable in all cases

(1) The maintenance of effective immigration controls is in the public interest.

(2) It is in the public interest, and in particular in the interests of the economic well-being of the United Kingdom, that persons who seek to enter or remain in the United Kingdom are able to speak English, because persons who can speak English—

(a) are less of a burden on taxpayers, and

(b) are better able to integrate into society.

(3) It is in the public interest, and in particular in the interests of the economic well-being of the United Kingdom, that persons who seek to enter or remain in the United Kingdom are financially independent, because such persons—

(a) are not a burden on taxpayers, and

(b) are better able to integrate into society.

(4) Little weight should be given to—

(a) a private life, or

(b) a relationship formed with a qualifying partner,

that is established by a person at a time when the person is in the United Kingdom unlawfully.

(5) Little weight should be given to a private life established by a person at a time when the person's immigration status is precarious

(6) In the case of a person who is not liable to deportation, the public interest does not require the person's removal where—

(a) the person has a genuine and subsisting parental relationship with a qualifying child, and

(b) it would not be reasonable to expect the child to leave the United Kingdom.

117C Article 8: additional considerations in cases involving foreign criminals

(1) The deportation of foreign criminals is in the public interest.

(2) The more serious the offence committed by a foreign criminal, the greater is the public interest in deportation of the criminal.

(3) In the case of a foreign criminal ("C") who has not been sentenced to a period of imprisonment of four years or more, the public interest requires C's deportation unless Exception 1 or Exception 2 applies.

(4) Exception 1 applies where—

(a) C has been lawfully resident in the United Kingdom for most of C's life,

(b) C is socially and culturally integrated in the United Kingdom, and

(c) there would be very significant obstacles to C's integration into the country to which C is proposed to be deported.

(5) Exception 2 applies where C has a genuine and subsisting relationship with a qualifying partner, or a genuine and subsisting parental relationship with a qualifying child, and the effect of C's deportation on the partner or child would be unduly harsh.

(6) In the case of a person who is not liable to deportation, the public interest does not require the person's removal where –

(a) the person has a genuine and subsisting parental relationship with a qualifying child, and

(b) it would not be reasonable to expect the child to leave the United Kingdom .

(7) The considerations in subsections (1) to (6) are to be taken into account where a court or tribunal is considering a decision to deport a foreign criminal only to the extent that the reason for the decision was the offence or offences for which the criminal has been convicted.

5. Much of the relevant Rules is to similar effect, but again they are set out, so far as they may be involved in the decisions to be made:

398. Where a person claims that their deportation would be contrary to the UK's obligations under Article 8 of the Human Rights Convention, and

(a) …

(b) the deportation of the person from the UK is conducive to the public good and in the public interest because they have been convicted of an offence for which they have been sentenced to a period of imprisonment of less than 4 years but at least 12 months; …

(c) …

the Secretary of State in assessing that claim will consider whether paragraph 399 or 399A applies and, if it does not, the public interest in deportation will only be outweighed by other factors where there are very compelling circumstances over and above those described in paragraphs 399 and 399A.

399. This paragraph applies where paragraph 398 (b) or (c) applies if –

(a) the person has a genuine and subsisting parental relationship with a child under the age of 18 years who is in the UK, and

(i) the child is a British Citizen; or

(ii) the child has lived in the UK continuously for at least the 7 years immediately preceding the date of the immigration decision; and in either case

(a) it would be unduly harsh for the child to live in the country to which the person is to be deported; and

(b) it would be unduly harsh for the child to remain in the UK without the person who

is to be deported; or

(b) the person has a genuine and subsisting relationship with a partner who is in the UK and is a British Citizen or settled in the UK, and

(i) the relationship was formed at a time when the person (deportee) was in the UK lawfully and their immigration status was not precarious; and

(ii) it would be unduly harsh for that partner to live in the country to which the person is to be deported, because of compelling circumstances over and above those described in paragraph EX.2. of Appendix FM; and

(iii) it would be unduly harsh for that partner to remain in the UK without the person who is to be deported.

399A. This paragraph applies where paragraph 398(b) or (c) applies if –

(a) the person has been lawfully resident in the UK for most of his life; and

(b) he is socially and culturally integrated in the UK; and

(c) there would be very significant obstacles to his integration into the country to which it is proposed he is deported.

6. Issues As Judge Higgins noted at paragraphs 40 – 42 of his decision, neither paragraph 399 nor 399A of the Rules applied in this case, for reasons which will already be clear from the history. However they remain of some relevance, because of paragraph 398. In a case such of this, to which that paragraph applies, the judge has to consider whether there are 'very compelling circumstances over and above those described in paragraphs 399 and 399A'; and that is what Judge Higgins set out to do at paragraph 43. The issue for me is whether his approach to that question was in accordance with the law or not.

7. Permission to appeal was given in general terms on that point, on grounds, not by Mr Jarvis, which took a number of detailed ones, not as clearly as he argued the case. Mr Mackenzie had had Mr Jarvis's skeleton argument before the hearing began, but left it till the start of his own submissions to raise the question of whether the points set out in it were covered in the grounds or the grant of permission. As he acknowledged in response to my query, none of them had come in any way as a surprise to counsel of his very considerable experience; and he did not specify any as ones which Mr Jarvis should not be allowed to argue.

8. While it is important that the ground-rules for Upper Tribunal hearings should be set in advance as far as possible, so as not to take parties by surprise, or to waste the Tribunal's time at the hearing, the latter consideration makes it equally important not to spend any more of it than absolutely necessary in considering in detail whether points are or are not covered by the grant or the grounds, and I do not propose to do so here.

9. Judge's decision Judge Higgins was faced with a young man of 20, who had spent very nearly all his life in this country; but he had served a 30 months' sentence for dealing in class 'A' drugs, with a short consecutive one for an offence of violence. He had a girl-friend, with a child on the way; but he had got together with the mother after he had been told he was liable to deportation; and there could be no existing relationship with an unborn child. To allow his appeal, the judge had to find not only 'very compelling circumstances over and above those described in paragraphs 399 and 399A'; but a path through the obstacles set up in ss. 117B – C.

10. The judge referred to s. 117B at paragraph 53, but did not deal expressly with its provisions at all. He did not specifically mention the stage at which the appellant had got together with his baby-mother; but it is possible to read his paragraph 48 as discounting his relationship with her, as short-lived so far and potentially not lasting. That might suggest that he gave little weight to it, even without reminding himself that he was bound to do so, in view of s. 117B (4) and (5).

11. The appellant's relationship with his family was also of course important for the judge: here there might well be something to be said for Mr Jarvis's point that much of this had been built up before he, or any of them had indefinite leave to remain. It might on the other hand be said that that had little to do with real life: the appellant was born into his family back in Jamaica, came here with them as a very small child, and the Home Office recognized the situation by giving them all indefinite leave to remain in 2008. I may have to return to this point on s. 117B (4) later; but I am not treating it here as one on which the judge was clearly wrong in law.

12. The other important point for the judge, apart from the appellant's long residence and claimed rehabilitation, was of course the child on the way. That child was not yet a sentient being, and his or her interests were not to be considered in their own right. His mother's pregnancy was of course a factor for serious consideration in the context of the appellant's relationship with her; but by s. 117B (5), that was to be given little weight in any event. The significant finding which the judge made on the child came in the last sentence of paragraph 48: "… [the appellant's] removal is likely to deny him the opportunity to form a close parental bond with his child during his or her early years".

13. <u>Error of law</u> Whatever might be said about such a finding in the case of a child already in being, when in any case it could no doubt be justified by reference to the child's own best interests, that was not the situation before Judge Higgins. I do not think he was entitled to deal with the situation at the date of the hearing before him, as his approach obliged him to, in terms of an opportunity that might (barring accidents) be lost to the appellant by deportation. That point has nothing to do with the statutory framework; but there are others which do.

14. The judge's consideration of s. 117C comes at paragraph 54. Here the judge dealt quite adequately and realistically with s. 117C (2) in terms of the appellant's violent disorder conviction; but it is only necessary to compare the sentences passed to see that this was very much the less important of the two: on its own, it would not have brought about automatic deportation at all. As for the drug dealing, while the sentencing judge certainly did describe the appellant's offending as "right at the bottom of the category [3] range for that offence", this needed to be seen in context.

15. Looking at the Sentencing Council's guidelines, to which the sentencing judge was referring, it should have been clear to Judge Higgins that this was a very serious offence, not to be passed over simply as "… being in the bottom of the range of the relevant sentencing category", compared to his more detailed treatment of the relatively unimportant violent disorder. This is not to criticize the judge for being concise, but for getting things out of proportion; in my view to the extent that he was wrong in law in the approach he took. Perhaps he was misled by the experienced sentencing judge's having

dealt much more shortly with the drugs offence, to which very specific guidelines applied, than with the violent disorder.

16. However, Judge Higgins's obvious mistake on s. 117C was in his not realizing that sub-section (3) provided that the public interest required this appellant's deportation, unless either exception 1 or 2 applied; but he did not consider either of them. So far as exception 1 is concerned, he would no doubt have concluded, if he had given his mind to it at all, that it could not possibly be argued that the appellant had been lawfully resident in this country for most of his life, since he had been here, blamelessly or not, without leave from 1994 to 2008, and only with leave since then.

17. On exception 2, the judge had already effectively discounted the appellant's relationship with his baby-mother (see his paragraph 48); so there was no room for the 'unduly harsh' finding required for the exception to apply. As for the appellant's prospective relationship with their child, he or she might well have been a 'qualifying child' once born; but at the date of the first-tier hearing there could have been no question of the appellant's having any 'subsisting' relationship with him or her.

18. It follows that, on the judge's findings of fact, neither exception 1 nor 2 applied: however, the parties agree that the terms of s. 117C (3) did not mean that the appellant's deportation must follow. The result is that the judge's decision is set aside; but I directed a further hearing on 27 November, for me to re-make it on the basis of any submissions, and any relevant evidence, on any points still open to the appellant.

19. <u>Re-hearing</u> On 27 November the appellant did appear, with a number of family members. Mr Mackenzie told me that, sadly, J G's pregnancy had ended in a miscarriage, and the appellant's relationship with her, perhaps not coincidentally, had also ended. It follows that neither J G nor the expected baby enter into consideration at this stage. Mr Mackenzie suggested there should be a full re-hearing on fresh oral evidence; but in the circumstances I saw no need for one, and invited both him and Mr Clarke to address me on the evidence as it stood. I did however admit the only piece of fresh documentary evidence Mr Mackenzie put forward, which was a letter from the appellant's probation officer, Mr David Watts, dated 26 November. Inevitably I shall have to go again over some ground already covered.

20. Mr Watts says the appellant was released on immigration bail on 28 August 2014, and was under his supervision till 30 July 2015, when the licence period of his sentence expired. Mr Watts says he "… did generally comply with Licence Supervision, he had three absences during his licence period; however he was never subject to formal Breach Proceedings or Recall". He had done well on his Thinking Skills Programme [TSP] and other courses, but was said to have been unable to get a job or apply for formal education courses, because of the requirements of his immigration bail. I am at a loss to understand how this could have been, since the appellant has benefited from the services of experienced specialized solicitors and counsel. If the conditions first imposed proved too onerous, then an application could have been made to vary them.

21. So far as the appellant's criminal propensities are concerned, he was assessed at the end of his licence period as posing a medium risk of serious harm to members of the public and

known adults (specifically other gang members). However, Mr Watts says he was removed from the 'gangs matrix' in July 2015, because there was nothing to show he was still involved in offending of that kind. The final assessment was that he presented a medium risk of non-violent reoffending, and a low risk of violent.

22. Findings of fact The judge accepted much of what the appellant had to stay, and there has no challenge to that, but rather to the conclusions he drew from it. The relevant facts for present purposes are that the appellant is now 22, and has lived in this country as his home since 26 June 1994, when he was nearly eight months old. He had leave to enter with her as a visitor, and presumably as the dependant of a student till 1995, but then no more till they both got indefinite leave to remain in 2008.

23. The facts of the appellant's criminal record are already set out at **2**: so far as the sentencing judge's assessment of the drugs offence is concerned, he described the appellant as "right at the bottom of the category [3] range …". What the judge meant, as would have been clear to all concerned, was that offering to sell 0.34g crack cocaine to someone who turned out to have been an undercover police officer put him at the bottom of the street dealing category, with a lesser role, leaving him at the lowest end of a range going from 3½ years (the starting-point taken by the judge) to 7. That starting-point was reduced to 30 months on account of his late plea of guilty.

24. As for the violent disorder, the appellant had been involved in a gang fight in a bookmaker's, to the extent that he took a crutch, which had been brandished by his associate in the shop, out onto the street with him: as the sentencing judge put it, he "… took the attack to the opposition, swinging that crutch in front of you". The violent disorder as a whole took 10 or 15 minutes, while the appellant's part in it had lasted no more than 20 seconds. For this, no doubt bearing in mind the totality of the sentence, the judge gave him 3 months' imprisonment consecutive to the drugs sentence, making 33 months in all.

25. The appellant's family life, as things stand, is limited to his relationship with his mother and siblings, and a number of his extended family members, all of whom came to the final hearing before me. He has only been back to Jamaica twice, for visits of

a. (2009) 7 weeks, with his mother and siblings, following the death of his maternal grandfather;

b. (2011) 4 or 5 months with his maternal grandmother when she went back to live there herself.

26. The appellant's grandmother is now partially paralysed, following a stroke, and living in a care home, which was arranged before the appellant returned to this country. So far as his mother is concerned, she sent him money on his 2011 visit, but she is now reading for a degree, and has her mother and two younger children to support; so the judge accepted that she was not likely to be able to give him any serious practical help now.

27. Law I have set out the relevant statute law and Rules at **4 – 5**. I see little point in discussing English case-law from before the present legislation. The possible exception is *Masih* [2012] UKUT (IAC) 46, which (see the judicial head-note at *(f) – (g)*) reiterated the principles in *Maslov v. Austria* - 1638/03 [2008] ECHR 546. However exception 1 to

s.117C (taken with the rest of ss. 117B-C: see **4**) is clearly framed to give effect to the principles in *Maslov*; and in my view a conviction for offering to supply a class 'A' drug, even at the lowest end of the street-dealing scale, is just as clearly capable of amounting to what the European Court of Human Rights described in *Maslov* (paragraph 85) as 'other [*that is, non*-violent] very serious offending'. I see no reason on the facts of this case for not regarding it in that light, though I shall give my detailed views on that later.

28. Dealing with the later authorities to which I was referred, these are the principles relevant to this case which need for present purposes to be extracted from the decisions, which are for the moment in chronological, rather than in any attempt at logical order. In two cases, no more is required.

AJ (Angola) [2014] EWCA Civ 1636

(paragraph 39): "… a tribunal should seek to take account of any Convention rights of an appellant through the lens of the new rules themselves, rather than looking to apply Convention rights for themselves in a free-standing way outside the new Rules".

Chege (section 117D - Article 8 - approach : Kenya) [2015] UKUT 165 (IAC)

(judicial head-note): in a case where neither paragraph 399 nor 399A of the Rules applies, "… are there very compelling circumstances over and beyond those falling within [those paragraphs] relied upon, such identification to be informed by the seriousness of the criminality and taking into account the factors set out in s.117B"

29. Next I come to *Danso* [2015] EWCA Civ 596. Danso was a young man who had come here in 1995 at 13, and got indefinite leave to remain in 2008; but the same year he was sentenced to 4½ years' imprisonment for attempted rape and other sexual offences. Similar considerations to those in the present case were put forward, including an assessment by a consultant forensic psychologist to the effect that he presented less than a medium risk of further sexual offences, and a low one of violent re-offending.

30. This is what the Court of Appeal (Moore-Bick LJ, vice-president, giving what was effectively the judgment of the Court) had to say about that at paragraph 20: it is worth citing in full.

> [Counsel for the appellant] submitted that the tribunal should have placed much greater weight on the appellant's rehabilitation and the fact that he did not pose a significant risk of re-offending. He suggested that far too little importance is attached to factors of that kind, with the result that those who commit offences have little incentive to co-operate with the authorities and make a positive effort to change their ways. I have some sympathy with that argument and I should not wish to diminish the importance of rehabilitation. It may be that in a few cases it will amount to an important factor, but the fact is that there is nothing unusual about the appellant's case. Most sex offenders who are sentenced to substantial terms of imprisonment are offered courses designed to help them avoid re-offending in future and in many cases the risk of doing so is reduced. It must be borne in mind, however, that the protection of the public from harm by way of future offending is only one of the factors that makes it conducive to the public good to deport criminals. Other factors include the need to mark the public's revulsion at the offender's conduct and the need to deter others from acting in a similar way. Fortunately, rehabilitation of the kind exhibited by the appellant in this case

is not uncommon and cannot in my view contribute greatly to the existence of the very compelling circumstances required to outweigh the public interest in deportation.

31. Conclusions Dealing with the case on those authorities, it will first be clear that, for the reasons given at **16 – 17**, and on the basis of the facts as they now stand, this appellant cannot succeed under paragraph 399 or exception 2 to s. 117C, as he presently has neither a child nor a qualifying partner in this country; nor can he do so under paragraph 399A or exception 1 to s. 117C, as he has not been lawfully resident here for most of his life. That means, in line with the authorities from *MF (Nigeria)* [2013] EWCA Civ 1192 to *AJ (Angola)* [2014] EWCA Civ 1636, that, to succeed on an article 8 claim, he has to show what are described in paragraph 398 as "… very compelling circumstances over and above those described in paragraphs 399 and 399A".

32. Under *Chege*, consideration of what those might be will need to "…to be informed by the seriousness of the criminality and taking into account the factors set out in s.117B"; so I shall go on to that. I have dealt with the appellant's crimes, and what the sentencing judge had to say about them, at **23 – 24**. I do not think that his placing the appellant's supplying of crack cocaine in the lowest end of the street dealing category can in any way be taken as meaning that it was not to be regarded as a 'very serious offence', in terms of *Maslov* and following decisions. This was a class 'A' drug, whose only too well-known effects required, under the guidelines, a lowest sentence of 3½ years' imprisonment, subject to plea, even for a young man of this appellant's age. As for the violent disorder, though the appellant's own part in this gang fight did not take long, what happened must have been seriously frightening for any members of the public present, either in the betting shop or out on the street.

33. So far as the appellant's claimed rehabilitation is concerned, the supporting evidence is in Mr Watts's letter at **20 – 21**. Despite the appellant's three recorded absences from supervision appointments during the course of his licence period, I am prepared to accept that there has been some degree of rehabilitation over that time. However, I note what the Court of Appeal said in *Danso* (see **29 – 30**); and they clearly intended it to be generally applied, at least in cases not involving EEA citizens or their family members.

34. While 'the public's revulsion' may not be so strong a factor with drugs offences as with sexual ones, the need for deterrence of others is clearly as strong, and in my view even stronger. Where an offence is committed for gain, as this appellant's was, since the sentencing judge said nothing about his being a user, deterrence must be very much more of a practical goal than in the case of sex offenders, claiming at least to be ruled by their private passions. I have to conclude that, in this case as in *Danso*, such evidence as there is of the appellant's rehabilitation so far "… cannot in my view contribute greatly to the existence of the very compelling circumstances required to outweigh the public interest in deportation".

35. Dealing with the factors set out in s. 117B (see **4**), this appellant of course speaks English like a native, which must be in his favour, so far as it goes; he is not, and never has been financially independent, which is against him, though his imprisonment no doubt has had something to do with it. He does not have any qualifying child or partner. As for his private life, of course his relationship with his mother and other family members is not to

be regarded as "suddenly cut off when he reached his majority" (see *HK* (Turkey) [2010] EWCA Civ 583, paragraph 16).

36. However, the most significant, because earliest part of his life with them in this country was established between 31 October 1995, when his mother's student leave expired, very shortly after his second birthday, and 23 July 2008, when she and he received indefinite leave to remain, at a time when he was not quite 15. On reflection, I do not think there is anything in s. 117B (4) to justify regarding their presence during that period as in any way retrospectively legitimized by the subsequent grant of indefinite leave to remain, and it follows that his private life with his family has to be given little weight. The Home Office had chosen to recognize, for the future, a state of affairs which had been illegally brought about; but the effect of that recognition could not be expected to outlast the leave given having been made precarious by the appellant's own criminal conduct.

37. I should not in any case have regarded any of the factors so far discussed as potentially amounting, on the facts as found, to the 'very compelling circumstances' required for this appellant to escape the consequence of his crimes being deportation, even if I were not constrained by legislation to treat them as of little weight. The only factor which has given me pause for concern is the fact that this appellant would be leaving a country where he has been since he was not quite eight months old, for another where he has no-one now able to give him help or support, and has only visited twice (see **25**) for periods of no more than a few months.

38. However, it is quite clear from the authorities that I need to deal with this point, as with others, in terms of the law laid down by Parliament. It is a point clearly covered by the terms of exception 1 to s.117C: these are equally clearly set out in conjunctive and not disjunctive terms. It might well be open to this appellant to argue that there would be 'very serious obstacles to his integration' into Jamaica, and there might possibly be room for argument that he is socially and culturally integrated into this country, despite the term of imprisonment he has served for a very serious offence. However, in terms of the exception, neither of these points can help him, because he has unarguably not been lawfully resident here for most of his life.

39. The European Court of Human Rights's summary of its own ruling in *Maslov* was this:

> 75. In short, the Court considers that for a settled migrant who has lawfully spent all or the major part of his or her childhood and youth in the host country very serious reasons are required to justify expulsion. This is all the more so where the person concerned committed the offences underlying the expulsion measure as a juvenile.

40. I have already given my view that ss. 117B-C were clearly drafted with *Maslov* in mind, and so as to clarify its effect in an area where the need for clarity had become obvious. For an offender such as this appellant, sentenced to a term of between one and four years' imprisonment, s. 117C provides the exception set out at (4), and I do not think it is for me to seek to extend its scope by going beyond its terms. This appellant had been convicted of a very serious offence; and the ruling in *Maslov* only applies, in terms of the requirement for 'very serious reasons', to those who have been lawfully resident in the country in question for most of their lives. In my view, even if 'very serious reasons' were required in

this case in terms of *Maslov*, there were such reasons, after considering all the evidence, to justify this appellant's deportation, by way of his class 'A' drugs conviction.

41. In terms of s. 117C (3), there are no 'very compelling circumstances' to make deportation unjustifiable in this appellant's case. He had reached his majority, if only by months, by the time he committed either of his offences, and he is well beyond it now. Unfortunately for him, he will have to pay the penalty by way of deportation.

(a judge of the Upper Tribunal)