Upper Tribunal
(Immigration and Asylum Chamber)

R (on the application of Hammed Mohammed Alhammadi) v Secretary of State for the Home Department (FCJR) [2013] UKUT 00540(IAC)

Heard at Field House
On 20 August 2013

Judgment sent on

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IN THE MATTER OF AN APPLICATION FOR JUDICIAL REVIEW

Before

UPPER TRIBUNAL JUDGE LATTER

Between

THE QUEEN ON THE APPLICATION OF HAMMED MOHAMMED ALHAMMADI

Applicant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Applicant: Mr A Slatter, instructed by Greater Manchester Immigration Aid Unit
For the Respondent: Ms C Rowlands, instructed by the Treasury Solicitors

JUDGMENT

1. This is an application for judicial review by which the applicant challenges the respondent's decision made on 22 June 2012 that further submissions made on 16 May 2012 did not amount to a fresh claim. Permission was granted on 14 May 2013 and on 23 May 2013 the applicant with leave submitted amended grounds. The documents relied on are in an agreed bundle ('AB')

Background

2. The applicant claimed asylum on 26 January 2011, asserting that he had made a clandestine entry into the UK on 25 January 2011 by lorry. His application was refused for the reasons set out in the respondent's decision letter of 18 March 2011 (AB 162-170). The applicant claimed that he had been a resident of the United Arab Emirates (UAE) and was stateless. He said that he had been ill-treated by a sheikh because he had inadvertently told his girlfriend about the sheikh's illicit activities. He was detained and ill-treated to such an extent, so he claimed, that he had to be taken to hospital. He escaped and was able to leave the UAE with the help of an agent. He feared that if returned there his life would be at risk or he would be wrongly imprisoned. At one stage in his asylum interview he had said he was a Yemeni national but later retracted that. The respondent did not find the applicant's account to be credible and it was her view that he was in fact a citizen of Yemen. His application was refused and the applicant appealed.

3. His appeal was heard by the First-tier Tribunal on 28 April 2011. The determination of DIJ McClure (AB 171-179) dismissed his appeal on asylum, humanitarian protection and human rights grounds. The judge found that the applicant had failed to prove that he was a citizen of the UAE, not least as he had used a Yemeni passport over a number of years to travel to a number of different countries. It was his claim that the true owner of the passport had allowed him to use it but the judge did not find this to be credible. He did not find that the applicant told the truth about the circumstances in which he claimed to have been caused to leave the UAE. He did not find that the applicant had been mistreated and said that in all the circumstances he could not accept anything he had said as being either credible or being the truth in any way at all. He was satisfied that the respondent had proved that the applicant was in fact a Yemeni national and that his true name was Waheed Mohammed Sharif.

4. There was no application for permission to appeal against this decision but on 17 May 2012 further submissions were made on the applicant's behalf, and further documents were submitted in support of his assertion that he had been born in and had resided in the UAE. These included school reports, a police letter, a letter from HSBC, a hospital identity card, a further witness statement dated 8 May 2012 and a medico-legal report prepared by Dr Cornell dated 13 April 2012 with six further medical letters dated between 14 June 2011 and 20 January 2012. The respondent

reviewed this evidence but came to the view that it did not amount to a fresh claim and would not create a realistic prospect of success if brought before an immigration judge.

The Grounds

5. In order to understand the submissions it will be helpful to set out in full the amended grounds for challenging the respondent's decision:

> "1. The defendant misdirected herself with regard to the medical evidence from the Medical Foundation. Contrary to the guidance set out by Buxton LJ in WM (DRC) v SSHD [2006] EWHC Civ 1495 at [11], the defendant did not treat either her own view only as a starting point, nor did she treat the adverse credibility findings of the previous immigration judge only as a starting point for the hypothetical judge. The defendant did not consider properly or at all whether a hypothetical immigration judge, giving anxious scrutiny to the whole package of evidence then presented, could properly ascribe more weight to Dr Cornell's evidence than that to which he was prepared to attribute.
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> 2. Further, the defendant misdirected herself upon the Medical Foundation report by treating the findings made therein as 'add-ons' to the adverse credibility findings. This is contrary to the approach in Mibanga v SSHD [2005] EWCA Civ 365 as endorsed in SA (Somalia) v SSHD [2006] EWCA Civ 116 at [32]-[33]. It is evident from the defendant's consideration of Dr Cornell's findings on (1) the type of compression fracture (2) the anal fissure and (3) as to the post-traumatic stress disorder ('PTSD') diagnosis – see pages 189-192 of the claimant's bundle.
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> 3. The defendant erred in rejecting as unreliable Dr Cornell's PTSD diagnosis. The Medical Foundation doctor was qualified to give the diagnosis he made in accordance with established criteria. That diagnosis would necessarily affect a hypothetical judge's approach to the claimant's evidence, yet because of the defendant's mistake of fact amounting to an error of law and her Wednesbury unreasonable approach, the defendant did not consider at all the significance of the PTSD diagnosis to the question of whether the further submissions could be said to be 'significantly different' within the meaning of para 353 of HC 395 (as amended).
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> 4. The defendant erred in so far as she considered that Dr Cornell's assessment was entirely dependent upon the account given to him by the claimant. The Medical Foundation doctor was provided, *inter alia*, with the judge's decision, accounted for the possibility of fabrication, drew upon his own experience, used the clinical methodology and made an overall evaluation as required by established criteria.
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> 5. The defendant has misdirected herself in her approach to the documentary evidence submitted in support of C's claimed identity and country of habitual residence in the UAE by failing to consider whether a hypothetical immigration judge could consider the evidence corroborative of C's claims when taken in the round together with the other evidence. In so far as Judge McClure's nationality

findings are centrally premised upon mistakes of facts [42-54 determination], the hypothetical immigration judge would be bound not to follow them."

Submissions on behalf of the Applicant

6. Mr Slatter initially sought permission to produce a further witness statement from the applicant dated 5 August 2013. He submitted that this was relevant to issues arising from the applicant's use of passports as considered in the judge's determination and referred to in the applicant's second interview. It also related to whether his evidence had been correctly recorded and therefore properly taken into account. Ms Rowlands objected to further evidence being admitted at this stage, and in any event submitted that it could have no bearing on whether the respondent's decision was properly open to her on the basis of the evidence submitted to her. This was not a case where the Tribunal was rehearing the appeal but considering whether judicial review should be granted. I am not satisfied that further evidence should be admitted. The evidence goes to issues of fact. As Ms Rowlands rightly points out, I am concerned with whether the respondent's decision of 22 June 2012 should be quashed. The further evidence has no material bearing on that issue and in any event there has been ample opportunity to produce all the evidence the parties seek to rely on.

7. Mr Slatter dealt firstly with ground 3, arguing that the respondent had erred in rejecting the PTSD diagnosis on the basis that Dr Cornell had no apparent psychiatric qualifications or experience (AB 189-190). He referred to the rebuttal report by Dr Cole at [AB 230] which notes that Dr Cornell appended his CV to his report and this clearly stated that as an experienced GP he had extensive experience in psychological and psychiatric medicine and the note below his signature said that the author had undergone training in psychiatric assessment and diagnosis and had had specific training in identification, documentation and evaluation of scars and the physical and psychological effects of torture in accordance with the precepts of the Istanbul protocol.

8. He submitted that the significance of the diagnosis of PTSD was bound up with the issue of credibility. If it was accepted that the applicant was suffering from PTSD, the First-tier Tribunal would be obliged to treat him as a vulnerable individual in accordance with the Joint Presidential Guidance Note number 2 of 2010 and would therefore need to give anxious scrutiny to Judge McClure's credibility findings, the reasons for them and the decision-making process that led to them in the light of the applicant's vulnerability. He referred to JL (Medical reports – credibility) China [2013] UKUT 00145 and in particular to [26]-[27]. Discrepancies in the applicant's evidence when interviewed in respect of his asylum claim had weighed heavily with the judge and in particular his admission at one stage that he was a Yemeni national

even though later withdrawn. He argued that a diagnosis of PTSD could affect a judge's assessment of that evidence.

9. Mr Slatter then dealt with ground 4. He submitted that the respondent had erred by treating the findings of Dr Cornell as simply an add-on or as a separate exercise assessed only after the decision on credibility had been made. This was in breach of the approach set out in Mibanga v Secretary of State [2005] 1 INLR 377 as endorsed in SA (Somalia) v Secretary of State [2006] EWCA Civ 1302. He referred in particular to the comment of the respondent in the decision letter at AB 188 that it was noted that the account upon which all of the doctors were basing their assessment was the applicant's own anecdotal account and, as he was known to have lied about his experiences in the past, so too it was concluded that Dr Cornell's assessment was based upon a fabricated account. The report had followed the guidance given in the Istanbul protocol and did, so he argued, indicate a separate critical consideration by the doctor.

10. So far as ground 2 was concerned, Mr Slatter submitted that the judge had failed to follow the guidance in Mibanga and the evidence about the compression fracture, the anal fissure and the post-traumatic stress disorder had been wrongly rejected simply on the basis that the conclusions were based on fabricated evidence and the fact that the applicant had previously been found to have lied.

11. Finally, Mr Slatter dealt with grounds 1 and 5. He submitted that no proper consideration had been given to whether an immigration judge giving anxious scrutiny to the whole package of evidence could properly ascribe more weight to Dr Cornell's evidence than the respondent was prepared to give to it. He referred in particular to the Administrative Court judgment in R (ST) v Secretary of State [2012] EWHC 988 (Admin) where HHJ Anthony Thornton QC, sitting as a Deputy High Court Judge set out a comprehensive review of the approach to the matters to be considered when evaluating a challenge to the respondent's decision on a fresh claim.

12. He submitted that the respondent in the present case had failed to give sufficient consideration to what the hypothetical immigration judge's view would be as opposed to reaching her own decision on the matter. There was a two-stage test and he argued that in respect of the medical evidence that assessment had not been properly carried out and to this extent the respondent's decision was fundamentally flawed. There had been significant reliance on the previous finding that the applicant's evidence lacked credibility but the judge had proceeded on a mistaken calculation of the dates, taking the view at [44] of his determination that the applicant had visited America in 2010 and not 2009. This had been a central matter in the judge's assessment of the evidence. He submitted that the respondent, having wrongly rejected the diagnosis of PTSD, had then failed to carry out a proper assessment of how a judge would view that evidence and how it would affect his view of the previous findings.

Submissions on behalf of the Respondent

13. Ms Rowlands prefaced her submissions by emphasising that a challenge to the respondent's decision had to be on the basis that it was Wednesbury unreasonable. This set a high hurdle which she submitted the applicant had failed to reach. It had to be shown that no reasonable Secretary of State, looking at the evidence as a whole, could have reached the decision she did. She argued that the respondent's decision should not be subjected to a pedantic exegesis and even if it was shown that there had been any mistake of fact when the evidence was being assessed by Judge McClure it would still have to be demonstrated that the error would have had a material bearing on the outcome.

14. So far as Dr Cornell's diagnosis of PTSD was concerned, she submitted that the respondent was entitled to take into account that he did not have the relevant qualifications even if he had experience as a GP. She referred to Shala v Birmingham City Council [2007] EWCA Civ 624 and in particular to [18] where Sedley LJ, when considering the evidence of a doctor who was a registered medical practitioner in general practice, noted that in his CV under mental health experience he made no claim to specialist training but had pointed out that general practice required regular contact with a wide range of mental illness. Sedley LJ commented that those who relied on his opinions would need to bear in mind that, notwithstanding the doctor's wide experience in general practice, he was not a qualified psychiatrist.

15. Ms Rowlands submitted that the respondent was entitled to make the point that Dr Cornell had not referred in his report to the adverse credibility findings made against the applicant. He had set out the applicant's account of events but had said nothing about any assessment of credibility or taking any other factors into account. In these circumstances, the respondent was entitled to say that he had relied on the applicant's say-so and that there was no critical analysis of other aspects of the evidence. In relation to the anal fissure, Dr Cornell had failed to make any further assessment of whether it was caused by constipation and had failed to take into account the previous medical examination at AB 70-72 that there was no evidence of injury. It had been incorrect for Dr Cornell to say that the previous doctor had not been looking for anything.

16. When considering the compression injury to the back, the doctor had failed to give any consideration to whether it might have been caused by a road traffic accident, and in this context she referred to AB 85 and to the reference to the false accusation in this respect. Therefore, in relation to the three main aspects of the medical report: on PTSD, the doctor did not have the relevant qualifications; on the anal fissure, relevant matters had been left out of account; and so far as the back injury was concerned, there was evidence at AB 69 of an old fracture.

17. She submitted that the respondent was entitled to take as her starting point the decision of the previous immigration judge. Such errors of fact as had been identified would have had no bearing on the outcome of his decision. He had found

the story given by the applicant to be inherently improbable and had taken into account the discrepancies in the interview and most significantly the fact that at one point he had asserted that he was a Yemeni national. There were huge credibility gaps for the applicant to meet in relation to the use of the Yemeni passport and the credibility of his account of events in the UAE. These were all part of the background properly to be taken into account.

18. So far as the decision letter was concerned she submitted that the respondent had clearly asked herself the correct questions. She had been entitled to comment on the documents submitted in support of the application, which Ms Rowlands characterised as bizarre, to reject the witness statement and to take the view that the medical evidence was not reliable and would not give rise to a realistic prospect of success before an immigration judge. She submitted that there was no substance in the argument that the respondent had failed to give proper consideration to whether there was a realistic prospect of success before an immigration judge. This was not a difficult feat of mental gymnastics, but an assessment based on the evidence before her.

The Law

19. I remind myself of the guidance in WM (DRC) v Secretary of State [2006] EWCA Civ 1495 at [11] where Buxton LJ observed that the respondent must ask herself the right question and said:

> "The question is not whether the Secretary of State himself thinks that the new claim is a good one or should succeed, but whether there is a realistic prospect of an adjudicator, applying the rule of anxious scrutiny, thinking that the applicant will be exposed to a real risk of persecution on return … The Secretary of State of course can, and no doubt logically should, treat his own view of the merits as a starting point for that enquiry: but it is only a starting point for the consideration of a question that is distinctly different from the exercise of the Secretary of State making up his own mind. Second, in addressing that question, both in respect of the evaluation of the facts and in respect of the legal conclusions to be drawn from these facts, has the Secretary of State satisfied the requirement of anxious scrutiny? If the Court cannot be satisfied that the answer to both of those questions is in the affirmative, they will have to grant an application for review of the Secretary of State's decision."

I have also been referred to and taken into account the judgment of HHJ Anthony Thornton QC in R (ST) v Secretary of State. He has set out a comprehensive review of the relevant legal principles at [41]-[71] of his judgment.

Discussion

20. Mr Slatter's submissions are primarily focused on the way the respondent dealt with the medical evidence. He made it clear in his submissions that he was not seeking to argue a general point of principle on whether the respondent had erred in law by not carrying out a proper assessment of whether there was a realistic prospect of success

before an immigration judge save in so far as her assessment related to the treatment of the medical evidence. I will consider the grounds individually in the same order as Mr Slatter took them in his submissions, although there is inevitably some overlap between the grounds, and then look at the position overall.

Ground 3

21. In ground 3 it is argued that the defendant was wrong to reject Dr Cornell's diagnosis of PTSD as unreliable on the basis that he was not qualified in that area. The respondent dealt with the diagnosis of PTSD at AB 189-190, referring to HH (Ethiopia) [2007] EWCA Civ 306 and to AE & FE (PTSD – internal relocation) Sri Lanka [2002] UKIAT 05237. She then said:

> "It is considered that it is the overriding duty of a doctor to cite areas within their expertise and to cite areas that are not within their expertise. It is therefore considered that the diagnosis of PTSD cannot be considered reliable when a doctor does not have the appropriate psychiatric qualifications."

Mr Slatter refers to the fact that the doctor has experience of PTSD arising from his general practice, but nonetheless the fact that he is not a qualified psychiatrist is something that the respondent was entitled to take into account for the reasons given in Shala. However, as submitted by Ms Rowlands, the diagnosis of PTSD depends upon the applicant being truthful about his account of his symptoms, and in this context the view likely to be taken of the applicant's credibility is important. This point is made in the citation from HH (Ethiopia) at AB 189 that diagnosis is largely dependent on an assumption that an account given by an applicant was to be believed. It is clear from Dr Cornell's report that he has proceeded on the basis of the account given by the applicant: both on the history at [5]-[29] and on his past health history at [30]-[53]. I am not satisfied that there was any error made by the respondent which undermines her findings or that her approach to the medical evidence on PTSD can be characterised as Wednesbury unreasonable.

Ground 4

22. This ground argues that the respondent erred in so far she considered that the medical assessment was entirely dependent upon the account given by the applicant whereas the doctor was provided with the judge's decision, accounted for the possibility of fabrication, drew upon his own experience and made an overall evaluation as required by established criteria. As I have already indicated, the fact that Dr Cornell based his assessment on the account given by the applicant was a factor properly taken into account but this was clearly not the sole factor. The respondent commented on and considered what was said about the PTSD, the anal fissure and the back injury. The grounds do not satisfy me that there was any error of approach or that the respondent's decision was "entirely dependent" on the account

given by the applicant. I am satisfied that she looked at the medical evidence in the light of the evidence as a whole.

Ground 2

23. Ground 2 argues that the judge treated the medical evidence merely as add-ons to the adverse credibility findings contrary to the approach in Mibanga v Secretary of State. It is argued that the relevance of the evidence of the type of compression fracture, the anal fissure and the post-traumatic stress disorder was dismissed in respect of each on the basis that the applicant had previously been found to be lacking in credibility and that the evidence was wrongly compartmentalised rather than looked at as a whole.

24. Mr Slatter referred in particular to the decision letter at AB 188 and 189 on the medical evidence generally, where the respondent said:

> "It is also noted that the account upon which all of the doctors are basing their assessments, is [the claimant's] own anecdotal account … as you are known to have lied about your experiences in the past, so too it is concluded that Dr Cornell's assessment is based upon a fabricated account which you have provided to him."

and in respect of the compressed fracture:

> "As your account has been found to be wholly lacking in credibility, the findings of Dr Cornell in this regard are considered to add no weight to your claim."

and in respect of the anal fissure:

> "Again as you have been found not to be a witness of truth it is considered that Dr Cornell's conclusions are based upon fabricated information."

25. However, the respondent's findings on the medical evidence must be considered as a whole. It is correct that the report refers to evidence of a compression fracture of the first lumbar vertebra and a small prolapsed disc between the fifth and sixth lumbar vertebrae. The applicant claimed to have sustained this injury by being pushed into an empty swimming pool during his detention. Dr Cornell noted that the applicant was unclear about whether he was pushed, forced to jump or slipped, and says that there was "no antecedent history of back pain or mobility problems". The respondent was entitled to comment that this was based on the applicant's own account. Dr Cornell said that this type of compression fracture was highly consistent with landing on one's feet on hard ground and indeed it was unlikely to have occurred in any other manner, especially in a previously fit young man, but he could consider an alternative scenario in which he may have jumped from a height and landed on his feet, but people tended to avoid doing this through a common sense fear of injury.

26. The respondent commented that, as Dr Cornell said, common sense would normally prevent a person from inflicting this sort of injury upon themselves but it was not for Dr Cornell to assess whether or not this applied to the applicant, and whilst the injury was consistent with landing on feet on hard ground, there were numerous ways in which it could have occurred, whether deliberate or accidental, and even if it took place as part of an assault, it did not demonstrate that such an assault was part of a systemic campaign of persecution rather than a one-off attack. These comments were properly open to the respondent.

27. So far as the claimed anal assault with a cola bottle, Dr Cornell said that while the commonest cause of an anal fissure was constipation, the applicant gave no history of any such bowel or rectal problems prior to the torture and that the most likely cause relating to the trauma was by the repeated insertion and removal of the Coca Cola bottle with its sharp metal cap. He concluded that the fissure was highly consistent with this account. However, Dr Cornell said that there was a much more common cause of such a scar, constipation, but its exclusion was based on the applicant's own account and denial of previous symptoms. It is also relevant, as Ms Rowlands pointed out in her submissions, that Dr Cornell said that NHS surgeons had not noted any internal scarring apart from the fissure and explained this by the fact that they were not looking for scarring. However, in the report from Dr Watson at AB 72 on 14 June 2011, he confirmed that he had examined the applicant and that there was no posterior scarring consistent with a chronic fissure and that he saw no distal rectal pathology. For this reason Dr Cornell's statement that the treating doctors might not have looked for scarring is not sustainable.

28. When the respondent's decision is looked at as a whole I am not satisfied that she fell into the error of compartmentalising the evidence or that she reached concluded views on credibility and on whether there was a realistic prospect of success before an immigration judge and only then went on to look at the medical evidence treating it as an add-on.

Ground 1

29. As Mr Slatter made clear in his submissions, he does not seek to make a general argument about the respondent's approach to whether there was a realistic prospect of success in front of an immigration judge save in so far as it relates to the medical evidence. I am satisfied that it is clear that the respondent asked herself the right question. It is not only referred to in the introduction to the assessment of the protection-based submissions at AB 185 but also at points during that assessment: see by way of example AB 187 and AB 188. The respondent was entitled to take into account her own views as a starting point together with the previous findings by the immigration judge. Mr Slatter rightly emphasised that the task for the respondent was to assess not only what view she took of the further evidence but to consider what an immigration judge would make of it. I am not satisfied that the respondent failed to distinguish those two aspects of the test or that she failed to approach the issue of assessment with proper scrutiny of all the relevant issues.

Ground 5

30. Mr Slatter did not maintain his argument that the respondent had misdirected herself in her approach to the documentary evidence in relation to the applicant's claimed identity as a resident of the UAE by failing to consider whether the evidence corroborative of the claims was taken together with the other evidence but he did argue that the respondent should have taken into account the fact that Judge McClure's findings were based on a number of mistakes of fact, and that another judge would be bound not to follow them. I am satisfied that Judge McClure did make an error when commenting that the evidence showed that the applicant had visited the USA in June 2009 instead of June 2010, but I am not satisfied that this would have had any bearing on the outcome of the appeal. The other factors telling against the applicant's credibility were so strong that this error would not have affected the outcome of the appeal and does not undermine the respondent's finding that there would not be a realistic prospect of success before an immigration judge.

31. For these reasons I am not satisfied that any of the grounds relied on by the applicant are made out.

The overall position

32. When granting permission to appeal UTJ Gleeson highlighted her concern about whether the respondent had properly applied herself to the approach which would be taken by an immigration judge when considering the new material rather than simply considering the material for herself and questioned whether the refusal decision read more like an asylum refusal letter than an assessment of the previously considered material. Having heard full argument, I am not satisfied that the respondent has fallen into this error. As I have already indicated I have been referred to the judgment in R (ST) v Secretary of State which rightly emphasises that the decision taken under para 353 must be taken separately from the initial decision accepting or rejecting the claim and involves an exercise in mental gymnastics in the sense that, if the initial decision has been shaped by the decision maker's views on the applicant's credibility, the decision maker must immediately after rejecting the claim then decide whether the credibility decision is one that has a reasonable prospect of being overturned on an appeal to the First-tier Tribunal. The decision maker must stand back from the decision rejecting the new claim and review the further representations and the previously considered material afresh for the purpose of deciding whether, notwithstanding the rejection of the further submissions, the claim is a fresh claim. Reasons must be given which must be sufficient in content and length to explain why that decision has been made.

33. This very comprehensive analysis of the implications of the provisions of para 353 and of the test concisely set out by Buxton LJ in WM (DRC) must be balanced by the fact that the respondent's decision must not, in the words of Ms Rowlands, be subjected to a pedantic exegesis. I should add that it was not being suggested nor

could it have been suggested that Mr Slatter, who made his submissions in a clear, concise and helpful way, embarked on any such exercise.

34. Applying the test set out by the Court of Appeal in WM (DRC), I am satisfied in the present application that the respondent assessed the further representations and documents submitted in support with anxious scrutiny. There has been no challenge to the way she dealt with the school reports, the police letter, the HSBC letter and the hospital identity card, where she gave clear and compelling reasons why she did not regard them as reliable, nor to the further witness statement submitted on behalf of the applicant which she was entitled to regard as not only merely a disagreement with the previous findings, but also adding to the inconsistencies in the accounts given. She dealt carefully with the medical evidence and in my judgement reached findings and conclusions properly open to her. There is no reason to believe when the letter is read as a whole that the respondent was not fully aware that her obligation was to assess whether there was a realistic possibility of success before a First-tier Tribunal judge. I am satisfied that in making that assessment the respondent reached a decision well within the range of decisions reasonably open to her.

Decision

35. Accordingly, this application for judicial review is dismissed.

36. The applicant is to pay the respondent's costs of the application to be assessed on the standard basis if not agreed subject to the order not being enforced without an assessment of the applicant's ability to pay in accordance with s.11(1) of the Access to Justice Act 1999, directions in respect of which to stand adjourned generally to be restored on the written request of the respondent.

37. The applicant's public funded costs are to be subject to a detailed assessment in accordance with the Community Legal Service (Funding) Order 2000.

H J E Latter

Upper Tribunal Judge Latter