

BHATT MURPHY SOLICITORS
NOTE ON R(HA(NIGERIA) v SSHD

18 February 2013

1. On 25 February 2013 the Court of Appeal was due to hear an appeal against the decision of Mr Justice Singh¹ that HA, a Nigerian national, was unlawfully detained and subjected to inhuman and degrading treatment during two periods of detention in 2010. HA was supported in the appeal by Mind and Medical Justice.
2. HA suffers from paranoid schizophrenia and was applying for asylum. Even though a consultant psychiatrist had said he required urgent transfer to a psychiatric hospital he was unlawfully detained from 1 February to 5 July 2010. During this period he was provided with no treatment and was held in solitary confinement where he was self-neglecting and sleeping on the floor of the toilet. The judge also decided that the Home Secretary unlawfully failed to secure a prompt transfer to hospital
3. After treatment in hospital he was unlawfully transferred back to detention in Harmondsworth IRC between 5 November and 15 December 2010 when he was granted bail.
4. During the proceedings the Home Office gave an undertaking to the Court that the policy on detaining the mentally ill under immigration powers, which Singh J declared unlawful, would be reviewed.
5. The Home Secretary, having appealed every aspect of Singh J's judgment, has now decided to withdraw her appeal. She now concedes that HA was unlawfully detained and subjected to inhuman and degrading treatment in breach of article 3 of the European Convention on Human Rights.
6. At the same time as withdrawing the appeal, the Home Secretary has confirmed that she will either honour the undertaking given to the Court, or will apply to the judge to have it discharged. Given that there have now been 4 occasions when the Courts have found that her detention under

¹ <http://www.bailii.org/ew/cases/EWHC/Admin/2012/979.html>

immigration powers of those with mental disorders has breached article 3 it is clearly essential that the Home Secretary takes the opportunity to review her dangerous policy.

7. HA's was a truly disturbing case, and one of a number where the Home Office has demonstrated callousness towards the mentally ill. Although HA's self-neglecting behaviour included drinking from the toilet the Home Office's barrister sought to justify his treatment by suggesting that it was "ethnocentric" to consider that odd, as "plumbing is actually very culturally based".