

Bhatt Murphy Solicitors

PRESS RELEASE

26 August 2011

HIGH COURT RULES THAT A DETENTION JUST SHORT OF 5 YEARS UNDER IMMIGRATION ACT 1971 WAS UNLAWFUL THROUGHOUT

The High Court has, in what is thought to be one of the longest periods of immigration detention, ruled that the detention of our client, Mr Amin Sino, for 4 years 11 months was unlawful throughout.¹ In a judgment, which is strikingly critical of the Secretary of State, handed down yesterday, the High Court found that the Secretary of State had detained Mr Sino in circumstances where there was no reasonable prospect of removal in a reasonable time and failed to act with reasonable diligence in seeking to deport Mr Sino. Mr John Howell QC, sitting as a deputy High Court judge, found that the Secretary of State had sought to justify ongoing detention on the basis of factual assumptions which were not true [13] and found that the Secretary of State's witness statements served to defend the claim contained evidence that was false and misleading [17].

On 8 July 2006 Mr Sino was detained under administrative powers by the Secretary of State for the Home Department following a six month prison sentence for theft of an oyster card and a return to custody order. At the hearing of his claim for judicial review Mr Sino had been detained for 4 years 11 months. Mr Sino was released by the High Court on 10 June 2011 after the Court found that there was no prospect that his deportation would take place within a reasonable time. In the judgment delivered yesterday, the Court concluded that the detention of Mr Sino from 8 July 2006 until 10 June 2011 was unlawful as there had never been a realistic prospect of removal in a reasonable time.

The court also found that the decision to detain Mr Sino was influenced by the unlawful secret policy implemented by the Secretary of State for the Home Department between April 2006 - September 2008 to detain foreign national prisoners who were to be deported regardless of risk or individual circumstances [233]. Mr Sino's detention prior to 5 September 2008 was also unlawful because between 8 July 2006 and November 2006, and in February, May and November 2007 no detention reviews were conducted, contrary to stated policy for periodic review of the detention.

Jane Ryan of Bhatt Murphy solicitors, solicitor for Mr Sino, said:

"The judgment is a powerful reminder that immigration detention will only be lawful if there is a realistic prospect of removing an individual within a reasonable period. It is outrageous that Mr Sino was unlawfully detained for just short of five years without proper consideration of this critical safeguard against arbitrary detention. I am also deeply concerned that the Secretary of State served false and misleading evidence in defending this case which risked prolonging my client's unlawful detention. I would encourage the Secretary of State

¹ R on the application of Amin Sino v The Secretary of State for the Home Department [2011] EWHC 2249

to very carefully consider the Court's comments and to review its practice of long term and in many cases indefinite detention of those facing deportation following criminal convictions where there is no immediate prospect of removal."

For further information, please contact:

Jane Ryan
Solicitor, Bhatt Murphy Solicitors
j.ryan@bhattmurphy.co.uk
020 7729 1115
