

Press Release – Duncan Lewis - 23 October 2013

THE QUEEN on the application of SQ (PAKISTAN) AND ANOTHER

[2013] EWCA Civ 1251

COURT OF APPEAL

DUNCAN LEWIS wins landmark case involving the rights of children to access medical treatment.

This case involves a child who suffers from a serious medical condition requiring blood transfusions. The Court of Appeal allowed our client’s appeal and held that there will be circumstances in which the high Article 3 threshold will be reached in relation to a child where it would not be reached in relation to an adult.

Lord Justice Maurice Kay held:

“Article 3 confers an unqualified right. Ultimately the question is whether what is likely to befall the claimant crosses the high threshold and the test of exceptionality. Whether or not the required level of severity is reached in a particular case depends on all the circumstances of that case. I accept that there are circumstances in which the threshold will be reached in relation to a child where it would not be reached in the case of an adult.”

The case has now been remitted back to the Upper Tribunal for a further hearing.

Toufique Hossain, Immigration Director says:

“The decision by the Court of Appeal is important for human rights cases involving children. Our client suffers from serious health problems. We welcome the Court of Appeal’s judgment in this case and its wider impact on children and the application of Article 3 in health cases.. Duncan Lewis will continue to fight for the most vulnerable people in society”.

Ayesha Aziz, solicitor within the Immigration Team, acted for the appellant. We instructed barristers Stephen Knafler QC and Mark Symes both of Garden Court Chambers.