IN THE UPPER TRIBUNAL **Appeal No. CTC/1343/2015**

ADMINISTRATIVE APPEALS CHAMBER

Before: Upper Tribunal Judge Gray

This appeal by the claimant succeeds. Permission to appeal having been given by me in accordance with the provisions of section 12(2)(b)(i) of the Tribunals, Courts and Enforcement Act 2007 and rule 40(3) of the Tribunals Procedure (Upper Tribunal) Rules 2008 I set aside the decision of the First-tier Tribunal sitting at Colchester and made on 11 February 2015 under reference SC 132/14/00416. I refer the matter to a completely differently constituted panel in the Social Entitlement Chamber of the First-tier Tribunal for a fresh hearing and decision in accordance with the directions given below.

DIRECTIONS

1. The hearing shall be an oral hearing before a different panel.
2. HMRC is to notify the appellant and the FTT immediately a decision is taken as to whether to conduct a mandatory reconsideration of the section 18 decision not currently under appeal and taken in May 2014, and keep them apprised of the results of any review which is undertaken.
3. In accordance with my reasoning below if there is no mandatory reconsideration the section 16 appeal should be heard. If a mandatory reconsideration takes place then the appellant should act promptly to appeal that decision if it is not in his favour. Whatever the result of that mandatory reconsideration he should consider withdrawing this appeal against the section 16 decision; if he is appealing the section 18 decision following the mandatory reconsideration he should wait until the appeal is lodged prior to taking such a step. If a section 18 appeal is lodged and this appeal not withdrawn a judge may need to give consideration to the status of this appeal; I deal with this paragraph 63.
4. The tribunal should take no account of the legal provisions said to be applicable to this case in the submission from HMRC previously before the FTT as it is wrong.
5. These directions may be supplemented by case management directions made by a that Judge of the FTT.

REASONS FOR DECISION

Background

1. This matter concerns the receipt of working tax credit by the appellant during the tax year 2012 -2013.

2. Following a review conducted by HMRC the 2012-2013 award was terminated by a decision made on 24 September 2012. An appeal was lodged and the matter was heard by the First-Tier Tribunal (FTT).
3. The FTT dismissed the appeal issuing a decision notice which was to stand as a full statement of reasons. It was succinct, but the essential reasoning can be ascertained.
4. The judge found as a matter of fact that the appellant was working in his own business to build it up; a research and development role. He did not see that the business was in a position to pay the appellant and found, therefore, that he was not engaged in remunerative work.

Proceedings before the Upper Tribunal

5. I granted permission to appeal saying

It seems to me that the grounds of appeal raise issues as to whether the applicant was in fact in qualifying remunerative work during the relevant period, a term not defined in the tax credit legislation. The matter may raise some legal issues as to the position of someone in the applicant's circumstances of apparent self-employment and the practicalities of an enterprise such as the applicant's in relation to payment or the expectation of payment for work done.

HMRC position

6. The HMRC response opines that the First Tier Tribunal may have been under a misapprehension as to the nature of the decision they were dealing with which caused them to reverse the burden of proof, placing the onus on the appellant to show that he was in remunerative work, whereas, the decision being as a matter of fact a decision under section 16 of the Tax Credits Act 2002 (TCA) the onus was on HMRC to show otherwise.
7. I am asked to make a decision that is now said the FTT should have made, because it is argued that they did not have jurisdiction to decide the section 16 issue.

The appellant's position

8. The appellant naturally disagrees with the FTT decision and his disagreements are understandably of a factual rather than a purely legal nature. He tells me, for example, that he was paid for the work that he had done. As the matter will now be reheard the facts are at large for the new Tribunal to find.

My decision

9. I accept that there was a probable error of law at the FTT.
10. Regrettably the submission from HMRC below was of extremely poor quality, and may well have misled the tribunal into the position HMRC sets out. The terms of the brief statement of reasons for the decision tend towards that view.
11. The HMRC submission writer to the FTT was under the misapprehension that Tribunal was dealing with a section 19 decision; I say that on the basis of the legislation quoted in paragraph 6.2 of that submission. There is, accordingly, a firm basis for the

concern HMRC now expresses to me. I do not need to go further than that in this decision. I deal with the issue of the burden of proof under section 16 in *SA-v-HMRC [2016] UKUT 0063 (AAC) [9-12].*

12. I am directing that the matter be remitted for rehearing by a fresh Tribunal. I will deal at this stage with the substance of the case, and what the FTT will need to consider.
13. I must then deal with a more technical and critical issue of law which goes to jurisdiction; that is to say whether I or a fresh FTT have the power to continue to deal with this section 16 appeal. My decision makes it clear that I find that we do. I will in due course explain why that is. As a jurisdiction issue logically I should deal with that matter first, but I think it important for the appellant to know my decision in respect of what is the main issue for him, and the points that the fresh Tribunal will be addressing.

The task of the fresh Tribunal

14. The claim for working tax credit had been made by the appellant jointly with his wife.
15. In order to qualify for tax credits under section 10 of the TCA he needed to satisfy the conditions in regulation 4 (1) Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002. In his particular circumstances in order to found the claim he needed to establish more than 30 hours of work each week. He said that he was working for 32 hours each week in his own business. That has not been an issue in the appeal.
16. Under the fourth condition of regulation 4 (1) work done must be *"for payment or in expectation of payment".* This was the issue.
17. The fresh tribunal will be best placed to make factual findings as to whether the appellant's activity was work so performed.

'In expectation of payment'

18. I have already said that the appellant's case, at least in part, is that he was paid for his work. However the HMRC concern related to his business apparently not making a profit; bearing that in mind, and looking at his written statement to the FTT, whether or not the work was done in expectation of payment will be a feature.
19. The starting point in relation to that is the decision of the Court of Appeal in *Chief Adjudication Officer v Ellis reported as R(IS) 22/95)*, a decision concerned with regulation 5 (1) of the Income Support (General) Regulations 1987 which defined remunerative work as: *"work for which payment is made or which is done in expectation of payment."* That is the same test as in the current tax credit regulations with which I am dealing. I accept the appellant's point that the circumstances in *Ellis* were factually different to his own, but the legal conclusions are relevant. Lord Justice Millet, whilst pointing out that each case is fact dependent, sets out some guidelines. I would, however, make two points in relation to those guidelines and their wholesale application to this case.
20. The first is a health warning regarding a reference to another decision of the Court of Appeal, the case of *Perrot –v- Supplementary Benefits*

Commission [1980] 3 All ER 110; it needs to be appreciated in considering *Perrot* that the regulation then in issue did not include the qualification as to the work being done in the expectation of payment; the regulation was later amended, perhaps as a result of that case.

21. My second point relates to the stricture that the question whether the work is done in the expectation of payment is decided at the time that the work is done. The rider to that in the guideline is *"not at the end of the year or other period of account, but periodically and probably on a weekly basis, since that is the period with reference to which income support is calculated."* Income support is of course a weekly benefit. Tax credits are not. Upper Tribunal Judge Rowland considered this issue recently in *MH v Her Majesty's Revenue and Customs (TC) [2016] UKUT 079 (AAC).*
22. He dealt with a situation in which the appellant and his wife, joint claimants who owned their own company, said that they were working but not, at certain times, drawing a salary. Judge Rowland, pointing out that the focus of the enquiry must be the expectation of payment at the time that the work was done, suggested that reassessment monthly might be appropriate. This was because *"it cannot be assumed that work done during the whole of the tax year was not done in expectation of payment merely because no salary was paid for any part of the year. It is important to consider a case such as this month by month because, if the Appellant and his wife were overpaid at all, they might have been overpaid for only part of the tax year."*
23. It seems to me that the business accounts may be of assistance in shedding light upon the position as it was likely to have been when the work was done, but overall the matter is likely to be determined on the application of a common sense approach. The matter was described by Lord Justice Millett in *Ellis* as 'very much a jury question.' He did, however state to be correctly decided a number of Commissioners (now Upper Tribunal) authorities, concerning unpaid work done by such as aspiring novelists or pop music promoters in respect of whom it was said that the work being done was done not in expectation of being paid for **that** work, but in the hope of striking it rich one day.
24. In addition to the case of *Ellis*, the decision of the Court of Appeal in *Smith v Chief Adjudication Officer* reported as *R(IS) 21/95,* also assists in relation to the concept of remunerative work, and whether work done in the course of setting up a business is work done in expectation of payment.
25. There the partner of an income support claimant was receiving payments of enterprise allowance, a weekly allowance paid for a period of 52 weeks to persons previously unemployed who had started a new business. The business was an agency for pop musicians, and there was inevitably going to be delay before any commission was earned on their performances. Having dealt with certain technical issues surrounding the enterprise allowance, the court directed its attention to what it regarded as the critical issue, whether the work had been done in expectation of payment.

26. The argument of the claimant was that she had no realistic expectation of being paid for the great bulk of the work that she was doing, and certainly not for the number of hours that she was working. Against that it was argued that all the work she was doing was being done in the expectation that one day she would be paid for it, and that a longer view should be taken. Of course in this case, as in *Ellis*, the benefit, income support, was **not** payable if the claimant or their partner **was** engaged in remunerative work; the converse of the situation here, but the concepts are transferable.
27. Lord Justice Bingham MR as he then was, explaining that there would inevitably be difficult borderline cases, opined that the case did not fall near to that borderline. *"The evidence appears very clear that Miss Hussey was doing a great deal of work to try and establish herself in business. Once the business was established, once it was up and running, when she had a business to conduct, then it would be reasonable to infer that what she was doing was done for payment, or in the expectation of payment, but until that stage had been reached, when she was still seeking to obtain work, seeking to solicit custom, trying to get herself known in the market, trying to set herself up and establish herself, then it would seem to me that the work which she was doing was not done, either for payment, or in the expectation of payment."*
28. Lord Justice Simon Brown agreed, adding *"in many businesses much of the work done will indeed be purely speculative in nature and without a realistic prospect of it ever producing any payment. A nice question may well rise as to when the point is reached at which the bulk of the work done, work exceeding 24 hours per week, ceases to be merely preparatory to work for which there is a realistic expectation of future payment, ceases, that is, to be essentially an investment to build up goodwill, and becomes instead work, including of course, ancillary work, for which, in a more direct and immediate sense, payment is made or realistically to be expected. Until that point is passed, the business cannot properly be regarded as up and running; rather, it is being set up."*
29. Those remarks may be of help to the FTT in its analysis of the position of the appellant here.

The jurisdiction issue

The relationship between sections 16 and 18.

30. The tax credit regime is set out in the Tax Credits Act 2002 (TCA). It requires an initial decision under s 14 of the Act, which may make an award. An award may be amended or terminated during that tax year under section 16. It is not until after the end of the tax year, however, that a conclusive decision on entitlement is reached. That is a process which requires notice to be given under section 17, and, following that, the entitlement decision for that former tax year is made under section 18.

The section 16 procedure

31. Section 16 is an in year review power which enables HMRC to amend or terminate an award if they have reasonable grounds to do so. Its use is intended to avoid the difficulties caused by significant overpayments by amending an award prior to the full annual payments having been made where it is appropriate to do that. It provides:

16.- (1) where, at any time during the period for which an award of the tax credit is made to a person or persons, the Board have reasonable grounds for believing-
(a) that the rate at which tax credit has been awarded to him or them for the period differs from the rate at which he is, or they are, entitled to the tax credit for the period; or
(b) that he has, or they have, ceased to be, or never been, entitled to the tax credit for the period,
the Board may decide to amend or terminate the award.
(2) Where, at any time during the period for which an award of the tax credit is made to a person or persons, the Board believe-
(a) that the rate at which a tax credit has been awarded to him or them for the period May differ from the rate at which he is, or they are, entitled to it for the period, or
(b) that he or they may have ceased to be, or never been, entitled to the tax credit for the period,
the Board may give a notice under subsection (3)
(3) A notice under this subsection may-
(a) require a person, or either or both of the persons, to whom the tax credit was awarded to provide any information or evidence which the Board consider they may need to the considering whether to amend or terminate the award under subsection (1); or
(b) require any person of a prescribed description to provide any information or evidence of a prescribed description which the Board consider they may need to that purpose,
by the date specified in the notice.

The section 18 process

32. The section 18 process is different. It occurs after the end of the tax year, and deals with whether or not entitlement existed.

18 Decisions after final notice

(1) After giving a notice under section 17 the Board must decide—

(a) whether the person was entitled, or the persons were jointly entitled, to the tax credit, and

(b) if so, the amount of the tax credit to which he was entitled, or they were jointly entitled,

for the tax year.

(2) But, subject to subsection (3), that decision must not be made before a declaration or statement has been made in response to the relevant provisions of the notice.

…(11) Subject to sections [19, 20, 21A and 21B] and regulations under section 21 (and to any revision under subsection (5) or (9) and any appeal)—

(a) in a case in which a decision is made under subsection (6) in relation to a person or persons and a tax credit for a tax year, that decision, and

(b) in any other case, the decision under subsection (1) in relation to a person or persons and a tax credit for a tax year, ,is conclusive as to the entitlement of the person, or the joint entitlement of the persons, to the tax credit for the tax year and the amount of the tax credit to which he was entitled, or they were jointly entitled, for the tax year.

The interaction between sections 16 and 18 here

33. The decision under appeal to the FTT in this case is a section 16 decision which was made in September 2012. A matter unknown to the FTT, but which I have been told, is that in May 2014 a conclusive decision as to entitlement during that same tax year was made under section 18.
34. The submission of HMRC to the FTT was dated 20 July 2014. It is indeed unfortunate that the writer of that submission did not check whether a section 18 decision had been made. The failure to do so was in fact a breach of rule 24 (4) (b) of the Tribunal Procedure (First-Tier Tribunal) (SEC) Rules 2008, under which it is the duty of the decision maker to provide with the response *"copies of all documents relevant to the case in the decision maker's possession, unless a practice direction or direction states otherwise".*
35. Had that duty been complied with there might have been an opportunity for a FTT judge in a case management role to establish the appellant's understanding of that decision and his right of appeal in respect of it, and if, as I suspect he would have done, he chose to

appeal that decision both matters could have been linked to be dealt with together by the FTT, which would have been in effect a supplanting of the appeal against the section 16 in year decision by the appeal against the section 18 decision. Instead the section 16 appeal stood alone.

36. The appellant did, however, respond to the notification of the section 18 decision. I am told that the letter was received by HMRC on 11 June 2014, but it is not in the papers before me. Whether or not HMRC is able to take action on the basis of that letter is a matter which I am specifically asked by HMRC to consider.

Does the section 18 decision lapse the section 16 appeal?

37. HMRC invites me to set aside the decision of the FTT and give the decision that it ought to have made, namely that the appeal against the section 16 decision made on 7 March 2013 is lapsed, but I am not persuaded that the section 18 decision will automatically lapse the section 16 decision, leaving a tribunal seized simply of the section 16 appeal without jurisdiction. It is not axiomatic that an apparently purposeless appeal must lapse. In *Anghel Judicial Authority of France [2015] EWHC 493 (Admin)* Mitting J considered whether an extradition appeal would lapse where the individual had already been extradited. He said:

"*As a matter of principle the fact of his extradition does not mean that his appeal automatically lapses or is to be treated as having been withdrawn or abandoned".*

38. For unrepresented appellants (the majority in this field) it may be that the need to pursue an appeal against a subsequent section 18 decision is not appreciated when there is already an appeal pending against the earlier decision in respect of apparently the same award; if the section 16 decision is made towards the end of the relevant tax year, and the section 18 decision promptly at the end of it, or if there is a delay in triggering the mandatory reconsideration process or some other procedural delay that cannot be laid at the door of the appellant, the situation could easily arise where the section 16 decision under appeal is apparently rendered nugatory but the section 18 appeal rights have been lost. That may lead to unfairness.

39. In other areas of law, and specifically in the area of social welfare law within which the Tax Credits legislation operates, there are statutory provisions for an appeal to lapse if it is overtaken by another decision against which there is a right of appeal. I note that under section 63(8) Tax Credits Act 2002 the Government had power to apply those provisions of the social security legislation that authorise lapsing but has not done so; HMRC's submission to me is that there is no such provision in the tax credits legislation but that section 18 (11), which provides that the decision under section 18 is conclusive, carries with it the implication that a prior section 16 decision is no longer of any effect. That is said to be lapsing in all but name.

The relationship between sections 16 and 18

40. The interplay between sections 16 and 18 has been considered by the Upper Tribunal in the two cases which have been referred to in the submission of HMRC before me.
41. Support for the current HMRC proposition is to be found in the decision of Upper Tribunal Judge May *CSTC/840/2014,* although I note that the HMRC position before Judge May was that there was value in the appeal continuing:

[11]"HMRC consider that the best option in light of this would be to allow the current appeal to continue and whatever the outcome (albeit that it is hypothetical), HM C will undertake to reflect that by, if necessary, making an amendment to 18 August 2014 decision. The basis that this would be that an official error had been made by HMRC in terms of the Tax Credit Decision, and under Section 21 of the 2002 Act and Regulation 3 of the Tax Credits Official Error Regulations 2003 (SI 2003/692), could be revised accordingly".

42. I examine the issue of potential value below.

CTC/2662/2005

43. Whether the First-tier Tribunal has power to proceed with a section 16 appeal in circumstances where a section 18 entitlement decision has been made was also an issue for Upper Tribunal Judge Jacobs in *CTC/2662/2005.*
44. That was a case in which he had both the section 16 and the section 18 decisions before him. He pointed out at [26] that any issues that were raised by the section 16 appeal were effectively redundant in the light of the end of that tax year and the section 18 decision. I do not disagree with that. I have already made the point here that had the two appeals been heard together the section 18 appeal would have effectively subsumed the section 16 appeal.
45. Judge Jacobs asked and answered the question:

"What happens to an appeal once a decision is given under section 18?

"42… The Tax Credits Act 2002 makes no provision for the effect of a section 16 decision after a section 18 decision has been made. However, section 18(11) provides that the decision under that section is conclusive, which carries with it the implication that the section 16 decision is no longer of any force or effect. That is lapsing in all but name. The disadvantage of this approach is that it is automatic. In most cases that would not matter, but there may be cases in which it would be appropriate to proceed with the appeal despite the fact that it had been overtaken by the section 18 decision.

43. Another analysis is that the tribunal should treat the appeal as raising only hypothetical issues. Courts decline to deal with such issues in public law cases. The appeal tribunal could do the same, simply declaring that the only issues raised are hypothetical and declining to decide them. The advantage of this approach over the lapsing of a decision or an appeal is that it gives the tribunal a discretion. The courts are prepared to decide hypothetical issues in public law cases if 'there is a good reason in the public interest for doing so', as Lord Slynn explained in R v Secretary of State for the Home Department, ex parte Salem [1999] 1 A.C. 450 at 457. This would allow a tribunal to proceed with an appeal against a decision under section 16 (or for that matter under section 14 or 15) if, for example, it raised an issue of general importance, such as the scope of an appeal under that section."

46. He left the two possible approaches as valid, not needing to rule on the issue in order to decide the appeal.

CSTC/840/2014

47. Judge May disagreed with Judge Jacobs's first approach that there may be cases in which it would be appropriate to proceed with a section 16 appeal that had been overtaken by a section 18 decision, saying that no example had been given, and he did not know what Judge Jacobs had had in mind. Judge May also referred at [6] to *R v Secretary of State for the Home Department, ex parte Salem* and dealing with a hypothetical issue, saying that the lesson from that case is that*" the discretion to do so should be exercised with caution and in very limited circumstances."*

An academic issue

48. Whilst a cautionary approach is no doubt appropriate, perhaps peculiarly in social welfare appeals cases not infrequently become academic prior to a decision, particularly an appellate decision on point of law, but are sometimes continued. In relation to the disputed factual issue in this case, whether the appellant could be said to been working in expectation of payment, *CAO-v-Ellis* was itself of a hypothetical nature by the time it reached the Court of Appeal. Nonetheless, the Court went on to consider it because it raised an important issue upon which the Chief Adjudication Officer wished to give guidance in pursuance of the proper administration of the benefits regime; it did not *"raise merely academic questions of private right, but questions of public law which need to be decided if the administration of the Social Security system can proceed in an orderly manner."*(Millett LJ)
49. But is a decision on the section 16 issue merely academic where the section 18 right of appeal is, or may be, lost?

Private right: an academic issue or of value to individual appellants

50. The conclusive nature of a section 18 decision does not mean that the section 16 decision raises merely academic questions. There will be circumstances in which such a decision can yet be of some effect.
51. Even though a tribunal decision on a section 16 appeal cannot be conclusive of entitlement, as a matter of practicality if a decision on the facts was made by a judicial body which was contrary to the facts found by the HRMC decision maker in the section 18 decision, the tribunal decision may provide grounds for HMRC to conduct a revision of the section 18 entitlement decision on the basis of official error. A major advantage for an appellant is that the time limit for such an application is five years, as opposed to the 13 month limit for appealing the section 18 decision itself; regulation 3(3) of the Tax Credits (Official Error) Regulations 2003.
52. Even if an application to revise was not successful it may be that the FTT judgement could be used as a defence to a money claim by HMRC *(Manchester City Council v Pinnock [2010] UKSC 45; R (Beeson) v Dorset County Council [2002] EWCA Civ 1812).*
53. So there may be reasons to resolve a section 16 decision on appeal in cases where there is no extant section 18 appeal.

Mandatory Consideration aspects

54. A complication of the interplay between the section 16 and section 18 decision is the issue of mandatory consideration. From 6th April 2014, subsection (1A) was inserted in section 38 of the TCA 2002 (by the Tax Credits, Child Benefit and Guardian's Allowance Reviews and Appeals Order 2014 (S.I. 2014/886)). Subsection (1A) provides:

(1A) An appeal may not be brought by virtue of subsection (1) against a decision unless a review of the decision has been carried out under section 21A and notice of the conclusion on the review has been given under section 21A(3).

55. That review is generally known as mandatory reconsideration. Were it not for that requirement the fresh tribunal, had it been aware of the section 18 decision might well have been able to deem it to be under appeal, given the coincidence of issues and the pursuance of the section 16 appeal.
56. I am asked by HMRC whether it can treat the continuance of the section 16 appeal as, in effect, a request for a mandatory consideration of the decision 18 decision. Regrettably my answer is that it probably cannot adopt that pragmatic way forward. I say probably because the issue is of some complexity and I have not had argument upon it.
57. The criteria for a mandatory reconsideration request is set out in Section 21A was also inserted in the TCA from 6th April 2014 by the same 2014 Order, which applies to decisions that carry a right of appeal under section 38 (1), which includes a section 18 decision.

Section 21A Review of Decisions

(1) The Commissioners for Her Majesty's Revenue and Customs must review any decision within section 38 (1) if they receive a written application to do so that identifies the applicant and decision in question, and-

(a) that application is received within 30 days of the date of the notification of the original position or that made the original decision was made if not notified because the section 23 (3), or

(b) it is received within such a longer period may be allowed under section 21B

58. That provision appears to demand a document that can amount to a review application prior to the review, which is necessary for the appeal rights to be triggered. The mere continuance of a prior course of action does not amount to that.
59. Here, a letter from the appellant was received by HMRC on 11 June following notification of the section 18 decision made on 19 May. Although I do not know the terms of the letter his stance throughout has been one of challenge, and if the letter echoes that stance HMRC would be able to treat it as a written request for mandatory reconsideration that was received within the statutory period of 30 days.
60. Whether it is treated in that way, however, is a matter for HMRC unless the letter is clearly applies for a review when they must conduct one. I cannot direct that his letter is treated in that way, so I cannot know that he will be in a position to withdraw his section 16 appeal either through a favourable outcome of a mandatory reconsideration or due to being given a fresh right of appeal regarding the section 18 decision if the review is unfavourable.
61. That matter also militates against my being bound to declare the section 16 decision under appeal as necessarily lapsed by the mere making of the section 18 decision in the absence of a statutory provision to that effect.

My decision on the lapsing issue

61. The preferred course is an appeal against the section 18 decision upon registration of which the section 16 appeal might be withdrawn, or if it was not could be deemed by a judge to be lapsed or otherwise supplanted by the section 18 appeal.
62. Where there is no section 18 appeal, and there may be a section 16 appeal outcome which, although it cannot immediately affect the section 18 decision has the potential to do so indirectly, the section 16 appeal should continue unless or until an effective appeal against the relevant section 18 decision is lodged.
63. Lodgement of an appeal against the section 18 decision may be a trigger for a case management decision to the effect that the section 16 appeal has lapsed, or that it should be struck out for lack of jurisdiction, but that step is premature without the subsuming section 18 appeal.

64. The procedural aspects relating to the difficulties of this particular legislation in concert with the complications of the appeal process in relation to time limits and mandatory reconsideration lend themselves to a situation such as has arisen here happening again. Without a statutory lapsing provision the proper protection for an individual is the continuation of rights in relation to an appeal currently in progress.

Upper Tribunal Judge Gray
Signed on the original on 24 August 2016