



**FIRST-TIER TRIBUNAL
ASYLUM SUPPORT**

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Appeal Number AS/12/06/28603/SB

UKBA Ref. 09/10/01539

Appellant's Ref.

IMMIGRATION AND ASYLUM ACT 1999
THE TRIBUNAL PROCEDURE (FIRST-TIER TRIBUNAL)
(SOCIAL ENTITLEMENT CHAMBER) RULES 2008

Tribunal Judge	Ms Sally Verity Smith
Appellant	MR AS
Respondent	Secretary of State

STATEMENT OF REASONS

1. This Statement of Reasons is made in accordance with Rule 34(1) of the Tribunal Procedure (First-tier Tribunal) (Social Entitlement Chamber) Rules 2008, and gives reasons for the decision given on Thursday the 12th day of July 2012, substituting my decision for that of the Secretary of State by determining that the appellant is eligible for support under Section 4 of the Immigration and Asylum Act 1999 as amended ("the Act").
2. The appellant, a Palestinian born on 26 February 1980, appeals against the decision of the Secretary of State who refused support under Section 4 of the Act on 27 June 2012.
3. The appellant gave his evidence today in Arabic by way of an independent court interpreter. He was represented by Mr Hopkins of the Asylum Support Appeals Project. The respondent was unrepresented.
4. The chronology of the appellant's applications for asylum and support are contained in the Statements of Reason of his two previous appeals to this Tribunal under reference AS/10/08/24312 and AS/10/06/23437. I do not propose to repeat them here. More recently, the appellant has made two applications for Section 4 support. The first, on 16 April 2012 on the grounds that (a) he was destitute and (b) he satisfied Regulation 3(2)(e). That application was refused by the respondent on 11 May 2012 on the grounds that although his destitution was accepted, his eligibility by way of Regulation 3(2) was not. The appellant does not appear to have appealed against that decision. The appellant made his second application for Section 4 support on 18 June 2012 on the grounds that (a) he was destitute and (b) he satisfied

Regulation 3(2)(a). That application was refused by the respondent on 27 June 2012 on the grounds that, again, although his destitution was accepted, his eligibility by way of Regulation 3(2) was not. The decision is made in the following terms:-

“You applied for the Assisted Voluntary Return scheme (AVR) but this was refused on three occasions because of your criminal offences. You have failed to provide any documentary evidence as to your identity or apply for the facilitated return scheme that would have been available to you”.

5. In his grounds of appeal the appellant confirms that he was granted bail by an Immigration Judge on 13 December 2011. He submits a copy of the grant of bail of that date. He confirms that the conditions of his bail were varied on 14 March 2012 and, again, a copy of that document is attached. The appellant submits that he is eligible for support under Section 4(1)(c) on the grounds that he is someone who was granted bail by an Immigration Judge and remains on bail: he satisfies the only criteria required for such support given that his destitution is not disputed.
6. The respondent made a written submission on 4 July 2012 confirming that the appellant's application for Section 4 support was considered under Section 4(2) rather than Section 4(1) as the appellant was not detained at the time of his application for support.
7. At the hearing today, the appellant submits:
 - (i) a copy of his grant of bail dated 13 December 2011, granted by an Immigration Judge on that day confirming that he must reside at 1BR in Bristol and to report to Trinity Road Police Station every Wednesday between 9 and 12 noon from 21 December 2011 onwards;
 - (ii) a copy of the variation of the conditions of his bail dated 14 March 2012 confirming that he must reside at 15BR in Bristol and that he is to report to the same police station but on Tuesdays between 8.30 and 9.30;
 - (iii) a copy of his application for support under Section 4(1)(c) dated 10 July 2012.
8. There is no other evidence from either party to this appeal.
9. Section 4(1) of the 1999 Act allows the Secretary of State to provide, or arrange for the provision of facilities for the accommodation of persons –
 - (a) temporarily admitted to the United Kingdom under paragraph 21 of Schedule 2 to the 1971 Act;
 - (b) released from detention under that paragraph; or
 - (c) released on bail from detention under any provisions of the Immigration Acts.
10. I have considered all the evidence before me carefully on a balance of probabilities.
11. I make the following findings:

- (a) that the discretionary nature of Section 4(1) support allows the Secretary of State to award support rather than compels her to do so;
 - (b) that the respondent's written policy in regard to Section 4(1) support demands that destitution is accepted before an award can be made;
 - (c) that the appellant's destitution is accepted by the respondent;
 - (d) that there is only one criteria to be met for section 4(1)(c) support once destitution is accepted, namely the applicant must be released on bail from detention under any provisions of the Immigration Acts;
 - (e) that there is no requirement that the applicant be detained at the time the award is applied for or granted (paragraph 6 above refers);
 - (f) that the appellant was released on bail on 13 December 2011 from detention under the Immigration Act 1971 and the Asylum and Immigration Act 1996 following an eight month period of detention during which the immigration service failed to remove him from the UK; and
 - (g) that he remains on bail.
12. I substitute my decision for that of the Secretary of State and determine that the appellant currently satisfies the criteria for Section 4(1)(c) support.

Ms Sally Verity Smith
Tribunal Judge, Asylum Support
SIGNED ON THE ORIGINAL [Appellant's Copy]

Dated 13 July 2012