



**FIRST-TIER TRIBUNAL
ASYLUM SUPPORT**

Address:

2nd Floor
Import Building
2 Clove Crescent
London
E14 2BE
asylumsupporttribunals@justice.gov.uk
Telephone: 020 7538 6171
Fax: 0126-434-7902
Appeal Number :
Home Office Ref. :
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 MS
Respondent	Secretary of State

STATEMENT OF REASONS

NOTICE OF DECISION UNDER RULE 8 (3)(c) STRIKE OUT

Decision: Your appeal has been struck out under Rule 8(3)(c) of the Tribunal Procedure (First-tier Tribunal) (Social Entitlement Chamber) Rules 2008 ('the Rules').

1. Your appeal against refusal of your Section 4 asylum support dated 14 December 2018 was received by this Tribunal on 17 December 2018.
2. You were notified on 19 December 2018 that the Tribunal considered that there was no reasonable prospect of your appeal succeeding because you do not currently fulfil the Section 4 destitution criteria as you are currently held at Colnbrook IRC. You were asked to advise by 31 December 2018 whether you agreed with this assessment and to submit further evidence if you did not. Furthermore, you were notified that there was no reasonable prospect of your appeal succeeding because your application for immigration bail had been consistently refused and there was no indication that you would be released from detention within the next 14 days. Furthermore, you were reminded that the refusal of support offers the possibility of a reapplication for support in the event of your imminent release. Finally, you were reminded that you had produced no evidence to show there was any legal or practical obstacle to prevent your leaving

the United Kingdom such as to qualify you for Section 4(2) support. You were reminded that Section 4(1) support was abolished on 15 January 2018.

3. You replied to directions on 2 January 2019 submitting confirmation that your application to the Upper Tribunal for permission to appeal had been received by the Upper Tribunal on 28 December 2018 and remained outstanding.
4. You have therefore provided evidence that you satisfy the requirements for Section 4(2) support found at Regulation 3(2)(e) by way of your outstanding immigration appeal.
5. However, your appeal has been struck out by the Tribunal Judge under Rule 8(3)(c) as she has determined that your appeal has no reasonable prospect of success for the following reasons:
 - (i) there is no evidence to rebut the evidence that you are currently detained at Colebrook IRC and will be detained for the foreseeable future, given that your requests for immigration bail have been repeatedly rejected namely on 11 April 2018, 7 June 2018, 20 August 2018, 25 September 2018, 1 November 2018 and 14 November 2018, not least because of your criminal record;
 - (ii) there is therefore no evidence before this Tribunal to suggest that you will be destitute within the next 14 days such as to satisfy the destitution criteria necessary to be awarded Section 4 support.
6. The Tribunal Judge has considered the guidance in appeal *ASA/05/05/9315* in which it was found that accommodation in a prison cell did not amount to adequate accommodation [for the purposes of the definition of destitution in asylum support cases] and that it would not be reasonable to occupy a prison cell where there was an alternative available. The Principal Judge confirms that in the event that appellant 9315 was granted bail s/he would satisfy the destitution criteria. In your case, the Tribunal Judge finds little prospect of you being granted bail: there is no alternative available within the next 14 days and the guidance in *ASA/05/05/9315* does not apply.
7. Furthermore, the Tribunal Judge is satisfied that your entitlement to re-apply for Section 4 support when you are no longer detained at Colnbrook IRC remains unaffected.

Ms Sally Verity Smith
Tribunal Judge, Asylum Support

Dated 8 January 2019

SIGNED ON THE ORIGINAL [Appellant's Copy]