

Appeal No:SC/20/2003

Date of Judgment: 16<sup>th</sup> February 2005

**SPECIAL IMMIGRATION APPEALS COMMISSION**

Before:

The Honourable Mr Justice Ouseley

Mr G Warr

Mr J Daly

**P - APPELLANT**

and

Secretary of State for the Home Department - RESPONDENT

For the Appellant:Mr B Emmerson QC

Instructed by:Gareth Peirce, Birnberg Pierce & Partners

Special Advocate:Mr N Blake QC

Instructed by:Mr S Trueman, Treasury Solicitor

For the Respondent:Mr J Glasson

Instructed by:Ms S Nasser, Treasury Solicitor

## REVIEW OPEN JUDGMENT

1. This is the open determination on the second review of the certificate issued by the Secretary of State for the Home Department in the case of P under section 21(1) of the Anti-Terrorism, Crime and Security Act 2001.
2. An oral hearing of the review had been requested in part so as to examine the consequences for the continued force of the certificate of the House of Lords decision in the derogation appeal. In the end, those submissions went to the request for bail which had been made to coincide with the review hearing and to the terms upon which bail should be granted. No open or closed submissions on behalf of P were addressed specifically to the continuance of the certificate. No material was submitted on his behalf for the specific purposes of the review.
3. At present, the Secretary of State has decided not to oppose the grant of bail to P; the Commission has ruled upon the extent of the powers under section 24 to impose conditions on bail which amount to house arrest and concluded, in an open part of its bail judgment in the case of P and A that section 24 does permit such conditions to be imposed. The Secretary of State has, however, proposed that less restrictive, but still strict, terms should be imposed. The setting of the precise terms of bail remains to be done by SIAC. The review of the certificate should nonetheless proceed. The timetable for the resolution of the review has been delayed by the need for an oral hearing linked to the bail application, after consideration of the effect of the House of Lords decision.
4. Since the first review of the certificate by a panel chaired by Sullivan J on 4<sup>th</sup> August 2004, P has been transferred to Broadmoor under section 48 of the Mental Health Act 1983. The Secretary of State said that that made no difference to the assessment of the risk to national security which he would pose if released. He had been connected with the Abu Doha group. We agree.
5. Although Abu Hamza, with whom P had associated, had been detained pending extradition to the USA, and later pending his own trial on criminal charges in the United Kingdom, there were others with whom P would associate to carry on his terrorist linked activities were he released. Kebilene was one. Algerian networks were resilient and previous detentions had not deterred P from his activities.
6. We consider that the certificate should continue in force and that is supported by the past SIAC judgments and the closed material for the review. The fact that bail will shortly be granted, on terms which are likely to be strict does not mean that the justification for the certificate has been reduced or reduced significantly.

MR JUSTICE OUSELEY

