



David Sellwood

YEAR OF CALL: 2012



David specialises in immigration, asylum, nationality, and human rights law. He acts in public and private law proceedings in courts and tribunals at all levels, including SIAC and the Supreme Court. He is regularly instructed in complex immigration, asylum, deportation, and citizenship deprivation proceedings; judicial reviews; and claims challenging unlawful immigration detention.

David is co-convenor of Garden Court's Immigration Team and ranked in Chambers and Partners, UK Bar (Immigration).

"David is a highly competent, diligent and skilled advocate, with significant experience of highly complex and high-profile immigration applications and appeals."

LEGAL 500, 2024 (IMMIGRATION)

"He has excellent communication in all situations, impeccable attention to detail, and he is capable of making all the difference in difficult cases."

CHAMBERS UK, 2024

"His calm advocacy is emotive, meticulous and watertight."

CHAMBERS UK, 2024

"Very reliable and very responsive. He produces great written work and has great knowledge of the law."

CHAMBERS UK, 2024

"David is very organised and thorough and has excellent client skills. He is calm and able to cope with the unexpected. His oral submissions are excellent as is his written work."

LEGAL 500, 2023 (IMMIGRATION)

"Very professional, responsive, charismatic and meticulous in the work he does."

CHAMBERS UK, 2023

If you would like to get in touch with David please contact the clerking team:

contactmyclerks@gclaw.co.uk | +44 (0)20 7993 7600

IMMIGRATION, ASYLUM AND HUMAN RIGHTS

David has a broad immigration, asylum, and human rights practice, both advisory and advocacy based. He has detailed knowledge and experience of the Immigration Rules, immigration legislation and policy, and the European Convention on Human Rights.

David regularly receives instructions in complex immigration, deportation, and removal proceedings, including those concerned with protection, and/or human rights issues. Most recently, he has acted in a number of immigration claims against designation under the Russia (Sanctions) (EU Exit) Regulations 2019.

He acts for a range of clients, from high-net worth individuals to those in receipt of legal aid.

David's reported cases include:

Vasa & Anor v SSHD [2024] EWCA Civ 777. Linked appeals to the Court of Appeal concerning the correct interpretation and application of EU law to extended family members, post-Brexit (including the EU Settlement Scheme and the EU-UK Withdrawal Agreement). Acted for the intervener, the AIRE Centre.

R (AB) v SSHD [2024] EWCA Civ 369, a challenge heard by the Court of Appeal to the difference in treatment between Afghan and Ukrainian nationals seeking entry clearance to the UK (under Articles 8 and 14, ECHR);

R (S & AZ) v SSHD [2024] JR-2022-LON-001667. A judicial review in the Upper Tribunal, challenging the SSHD's refusal to grant the applicants entry clearance outside of the Immigration Rules.

AAA & Ors v SSHD, in the Supreme Court ([2023] UKSC 42), and the Court of Appeal ([2023] EWCA Civ 745), and at first instance in the Divisional Court ([2022] EWHC 3230). A systemic challenge to the policy of removing asylum seekers to Rwanda in order to have their asylum claims determined there.

MAH v SSHD [2023] EWCA Civ 216, a rare example of the Court of Appeal setting aside a refugee protection decision from the Upper Tribunal and redetermining the issue for itself. The judgment sets out several important principles applicable in refugee claims, including the correct standard of proof, and the fact that there is no legal requirement to provide corroborating evidence;

R (S and AZ) v SSHD & Ors, on appeal in the Court of Appeal ([2022] EWCA Civ 1092), and at first instance in the Administrative Court ([2022] EWHC 1402 (Admin)). A challenge to the refusal to allow two Afghan judges at risk from the Taliban to relocate to the UK. The claim was successfully upheld on appeal;

Birch (Precariousness and mistake; new matters) [2020] UKUT 86 (IAC). An Upper Tribunal Presidential panel decision addressing how precarious immigration status affects a challenge against administrative removal under Article 8, ECHR;

R (Blackwood) v SSHD [2019] JR/590/2019. A judicial review in the Upper Tribunal, challenging deportation prior to civil proceedings being finally determined (Articles 6 and 8, ECHR).

SB (refugee revocation; IDP camps) Somalia [2019] UKUT 358 (IAC). An Upper Tribunal Presidential panel decision concerning the correct approach to determining whether refugee status should be revoked;

Rhuppiah v SSHD, in the Supreme Court ([2018] UKSC 58) and the Court of Appeal ([2016] EWCA Civ 803).

The key domestic authority on private life under Article 8 ECHR in the context of administrative removal;

Andell (foreign criminal – para 398) [2018] UKUT 198 (IAC). Guidance on the definition of a 'foreign criminal' under the Immigration Rules;

IA (Pakistan) v SSHD [2017] EWCA Civ 784. A deportation appeal on Article 8 ECHR grounds;

IR (Jamaica) v SSHD [2017] EWCA Civ 419. A deportation appeal on Article 8 ECHR grounds.

NOTABLE CASES

ADMINISTRATIVE AND PUBLIC LAW

David's judicial review practice involves challenges to a whole range of immigration-related decisions, including: unlawful immigration detention; the conditions and treatment of immigration detainees; refusal to provide support and accommodation to migrants; failure to recognise victims of trafficking and modern slavery; refusal to recognise further submissions as a fresh claim under the Immigration Rules; certification of protection and human rights claims; entry clearance refusals; delays in decision making; Global Talent visa refusals; sponsorship licence revocation; refusal to grant indefinite leave to remain; refusal to provide biometric residence cards to migrants; removal during on-going civil claims; refusal of the Upper Tribunal (IAC) to grant permission to appeal; and the refusal to naturalise or register individuals as British citizens.

Recent cases include:

R (AB) v SSHD [2024] EWCA Civ 369, a challenge heard by the Court of Appeal to the difference in treatment between Afghan and Ukrainian nationals seeking entry clearance to the UK (under Articles 8 and 14, ECHR); *R (S & AZ) v SSHD* [2024] JR-2022-LON-001667. A judicial review in the Upper Tribunal, challenging the SSHD's refusal to grant the applicants entry clearance outside of the Immigration Rules.

AAA & Ors v SSHD, in the Supreme Court ([2023] UKSC 42), the Court of Appeal ([2023] EWCA Civ 745), and at first instance in the Divisional Court ([2022] EWHC 3230). A systemic challenge to the policy of removing asylum seekers to Rwanda in order to have their asylum claims determined there.

R (S and AZ) v SSHD & Ors, on appeal in the Court of Appeal ([2022] EWCA Civ 1092), and at first instance in the Administrative Court ([2022] EWHC 1402 (Admin)). A challenge to the refusal to allow two Afghan judges at risk from the Taliban to relocate to the UK. The claim was successful upheld on appeal.

R (Blackwood) v SSHD [2019] JR/590/2019. A judicial review in the Upper Tribunal, challenging deportation prior to civil proceedings being finally determined (Articles 6 and 8, ECHR).

SPECIAL IMMIGRATION APPEALS COMMISSION

David advises and represents individuals in appeals and reviews before the Special Immigration Appeals Commission ('SIAC'), including where there has been exclusion from the UK, citizenship deprivation, or the refusal to naturalise. He has experience in cases involving national security; including allegations of terrorism, serious organised crime, and corruption. He is currently instructed in several cases before SIAC.

Recent cases include:

C9 v SSHD [2024] SC/173/2020, 2 February 2024. An appeal against citizenship deprivation, where the SSHD alleged involvement in Serious Organised Crime.

R3 v SSHD, in the Court of Appeal ([2023] EWCA Civ 169), and at first instance in the Special Immigration Appeals Commission ([2021] SC/150/2018, 19 February 2021). The case concerned citizenship deprivation on national security grounds, where the SSHD alleged that the Appellant had aligned himself with an Al-Qaeda aligned group in Syria. The Court of Appeal provided guidance on the application of Article 8 ECHR in the

context of citizenship deprivation appeals.

IMMIGRATION DETENTION

David is regularly instructed in unlawful detention / false imprisonment claims in the Administrative Court and County Court. He advises, drafts, and undertakes advocacy at all stages of proceedings. He has particular expertise in the treatment of Foreign National Offenders, and vulnerable detainees who fall under the Home Office's Adults at Risk policies, including those with mental health issues; and victims of torture or modern day slavery.

Recent cases include *R (Soltany & Ors) v SSHD* [2020] EWHC 2291 (Admin), a challenge to the lock-in regime and detention conditions at Brook House Immigration Removal Centre.

NATIONALITY

David regularly advises and represents individuals with claims to British citizenship, or subject to citizenship deprivation (both on 'conducive to the public good' grounds, or as a result of alleged fraud).

INTERNATIONAL HUMAN RIGHTS

David has significant international human rights experience, having worked and studied in the area for a number of years prior to the Bar. He has been involved in drafting petitions to the Inter-American Commission on Human Rights, including in the case of a Ukrainian national facing execution in Virginia: IACHR, Report No. 53/13, Case 12.864, Merits, *Ivan Teleguz, United States* (15 July 2013). David also co-authored an amicus curiae brief addressing prison conditions in the US in a European Court of Human Rights case: *Babar Ahmed and Others v United Kingdom* [2012] ECHR 609 (10 April 2012).

More recent work includes third-party interventions in the European Court of Human Rights, in *Otite v United Kingdom* [2022] ECHR 748 (27 September 2022), and *Osagiede v United Kingdom* (App no 228/20) (pending), both concerned with the correct approach to Article 8 ECHR in the context of deportation.

PRO BONO

David has provided pro bono advice and representation to Bail for Immigration Detainees since he was called to the bar. He has also represented individuals through Advocate (formally, the Bar Pro Bono Unit), and continues to work pro bono on other matters.

BACKGROUND

David spent over eight years in the human rights sector prior to the Bar. He worked at Reprieve, identifying and assisting European nationals on death row in the United States, initially as the Head of EC Project, then as joint Interim Director of their Death Penalty Team.

David joined Reprieve from the Foreign and Commonwealth Office, where he was a Human Rights Adviser seconded by Prisoners Abroad. He advised diplomats and government ministers on human rights issues affecting British nationals overseas, including the right to a fair trial, prisoners' rights, miscarriages of justice, and the death penalty.

David also worked as a Senior Immigration Caseworker at Wilson Solicitors LLP, then Refugee and Migrant Justice. He undertook an internship at the Independent Jamaica Council for Human Rights in Kingston, Jamaica, assisting local counsel and UK based lawyers representing prisoners sentenced to death.

PUBLICATIONS

Books

Contributor, *Jackson's Immigration Law and Practice* (fifth ed, Bloomsbury Professional) (forthcoming).

Contributor, *Macdonald's Immigration Law and Practice* (ninth and tenth eds, LexisNexis Butterworths) (2017, 2018, and 2021).

Contributor, *The Law and Practice of Expulsion and Exclusion from the UK* (first ed, Hart Publishing) (2014).

Articles, Practice Notes

Deportation LexisNexis Practice Note (2018, co-author).

Challenging deportation decisions LexisNexis Practice Note (2018, co-author).

Case Comment: I.A (Appellant) v The Secretary of State for the Home Department (Respondent) Scotland [2014] UKSC, Journal of Immigration and Nationality Law (2014)

Capital Punishment and the Caribbean: A Marriage on the Rocks? (2005) Vol 30, No.1, West Indian Law Journal 33.

TRAINING AND SEMINARS

David conducts training on a wide range of legal issues and areas of law.

Previous training includes:

SIAC: Expanded review jurisdiction & detention powers in terrorism cases, Garden Court Chambers' Nationality and Borders Bill Conference, London (March 2022).

The Special Immigration Appeals Commission: An Introduction, Wilson Solicitors LLP, London (September 2021).

Deprivation of British Nationality: the post-Begum landscape, Garden Court Chambers (April 2021).

Damages for visa revocation and maladministration by the Home Office, Garden Court Chambers (October 2020).

The good character tests in British citizenship applications, Gherson, London (February 2020).

Deprivation of citizenship: legal and practical issues in preparing deprivation appeals, Garden Court Chambers, London (November 2019).

An introduction to immigration and asylum law, Newham Psychological Service, NHS, London (October 2019)

Persecution by reason of political opinion, Mischon de Reya, London (April 2019).

Rhuppiah v SSHD: challenging removal on Article 8 grounds, Garden Court Chambers (February 2019).

Immigration bail under the Immigration Act 2016, Luqmani Thompson and Partners, London (May 2018).

Asylum, immigration and human rights update, Brighton Housing Trust, Brighton (April 2018).

Unlawful detention: principle, policy and procedure, Duncan Lewis Solicitors, London (July 2017).

Judicial review, Rashid and Rashid solicitors, London (May 2015).

Consular assistance and the protection of human rights, British High Commission, Islamabad, Pakistan (April 2011).

The death penalty and the prohibition on torture under international law, Reprieve Death Penalty Conference, Punjab Bar Council, Lahore, Pakistan (April 2011).

Representing foreign nationals Facing the death penalty, Capital Case Defense Seminar 2011, Monterey, California (February 2011).

The death penalty under international law: an end in sight? Vermont Law Review Symposium, Vermont Law School, Vermont, USA (February 2011).

Reprieve's EU Death Penalty Project: trends and patterns, European Union Delegation to the United States, Washington DC, USA (February 2011).

Partnerships for abolition – NGOs and the European Union, 4th World Congress Against the Death Penalty, Geneva, Switzerland (February 2010).

Public and private diplomacy and the death penalty, Centre on Public Diplomacy, University of Southern California, USA (October 2008).

AWARDS

Sir J.C. Smith Travelling Scholarship, University of Nottingham

European Commission Scholarship Centre for Capital Punishment Studies

EDUCATION

LLB (Hons), (ULaw)

LLM, Human Rights Law (Notts) - Distinction

BSc (Hons), Politics and International Relations (Soton)

PROFESSIONAL MEMBERSHIP

Immigration Law Practitioners Association (ILPA)

Bar Human Rights Committee

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contactmyclerks@gclaw.co.uk | +44 (0)20 7993 7600



57-60 Lincoln's Inn Fields, London, WC2A 3LJ

Email: info@gclaw.co.uk

Tel: +44 (0)20 7993 7600

DX: 34 Chancery Lane