

Benjamin Hawkin

Call: 1998

Ranked Tier 1

Legal 500 2025 (Immigration - including business immigration)



Benjamin Hawkin practises in Immigration, Asylum & Nationality, with an emphasis on human rights and public law issues.

Expertise

Immigration, Asylum & Nationality

Ben has appeared at every level of the Tribunal and Court system, representing victims of human rights violations, vulnerable individuals and families, political figures, military officers, and other prominent individuals.

Ben has appeared in groundbreaking cases in the Higher Courts, and has a particular interest in unusual, complex or intersecting issues of law.

Notable Cases

Akinola v Upper Tribunal, Abbas and Alam v SSHD [2021] EWCA Civ 1308, WLR (D) 469

Linked cases concerning interpretation and effect of section 3C of Immigration Act 1971 – in particular where application for variation of existing leave is refused by decision of Secretary of State – and subsequently there is out of time appeal for which extension of time is granted – or Secretary of State withdraws and/ or reconsiders decision – whether section 3C leave is revived.

Restivo (EEA – prisoner transfer) [2016] UKUT 449 (IAC), [2017] Imm AR 188

Represented Italian national convicted of ritualistic murders in UK and Italy in deportation appeal – should transfer request under European Council Framework

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Decision 2008/909/JHA on mutual recognition of judgments in criminal matters imposing custodial sentences, be made prior to deportation order – whether long-term prisoner can be “a genuine, present and sufficiently serious threat affecting one of the fundamental interests of society” under Article 27(2) of Citizens’ Directive.

SS (Mauritius) v SSHD [2016] EWCA Civ 926

Highly unusual case in which Secretary of State notified Appellant whilst serving prison sentence that she would not deport him, as she accepted he was British citizen – five years later she made deportation order, now stating she did not accept he was British citizen – First-tier Tribunal allowed appeal accepting Appellant was naturalised – Upper Tribunal overturned First-tier Tribunal’s decision and dismissed appeal as it did not accept he was British citizen, or that deportation would breach Article 8 of ECHR – Court of Appeal granted Appellant permission to appeal and to adduce fresh evidence – at full appeal Secretary of State also adduced fresh evidence – Court of Appeal ultimately decided Upper Tribunal was wrong to overturn First-tier Tribunal as its conclusions were open to it – First-tier Tribunal’s decision restored, and Secretary of State’s application for permission to appeal to Supreme Court refused.

R (Khatoun) v ECO and UT [2014] EWCA Civ 1327

Paragraph 297 of Immigration Rules – construction of paragraph 27 – effect of section 55 of Borders, Citizenship and Immigration Act 2009 – whether Entry Clearance Officer’s failure to consider Article 8 of ECHR was breach of policy guidance – whether obligation upon First-tier Tribunal to consider Article 8 if not raised by Appellant.

PO (DRC) and Another v ECO [2013] EWCA Civ 1571

Appellants lost both parents in civil war – applied to join grandmother in UK – refused by Entry Clearance Officer under paragraph 297 of Immigration Rules – appeals dismissed by First-tier and Upper Tribunals – nature and extent of positive obligation under Article 8 of ECHR – right of children to be heard in own cause – whether orphanhood is status carrying particular legal rights.

R (Abdollahi) v SSHD [2013] EWCA Civ 366, [2013] All ER (D) 119 (Apr)

Detention under Immigration Act 1971 – Claimant separated from wife and children for 26 months – whether failure to consult Office of Children’s Champion or to consider children’s best interests made detention unlawful – whether nominal or substantial damages should be awarded.

R (Kenneth Green) v Financial Ombudsman Service [2012] EWHC 1253 (Admin)

Judicial review of Ombudsman’s decision that financial advice on risks of pension drawdown scheme had been misleading – represented Claimant pro bono after he suffered stroke and became unable to represent himself – scope of deference to be shown to Ombudsman in light of particular expertise.

ZH (Tanzania) v SSHD [2011] UKSC 4, [2011] 2 AC 166

Led by Manjit Gill QC – Secretary of State proposed to remove failed asylum seeker with “appalling” immigration history – her two daughters were British citizens – Supreme Court gave landmark decision holding that children’s best interests are primary consideration in such appeals, that British citizenship has intrinsic importance that should not be underplayed, and that views of children must be ascertained and taken into account.

Asnath Pengeyo v SSHD [2010] EWCA Civ 1275, [2011] 1 WLR 2552

Appeal against decision to remove on basis of deception - out of country right of appeal, but heard by Tribunal in country, and allowed - whether Secretary of

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State permitted to raise jurisdictional point on reconsideration - whether Secretary of State's original decision taken in defiance of "basic standards of fairness and morality".

SI (mixed Serb/ Roma parentage) Kosovo CG [2009] UKAIT 00011

Kosovan of mixed Serb/ Roma ethnicity – father killed by ethnic Albanian community on suspicion of collaborating with occupying Serb forces – designated by Tribunal for Country Guidance – whether sufficiency of protection for minorities in Kosovo.

AG (India) v SSHD [2007] EWCA Civ 1534

Paragraph 289A of Immigration Rules – indefinite leave to remain as victim of domestic violence – definition must include psychological, physical, sexual or emotional abuse – rejection of account required clear and forceful reasoning.

R (Peter Mahon) v Independent Police Complaints Commission [2007] EWCA Civ 945

Whether investigation of complaint against Police sufficiently thorough or balanced – permission for judicial review granted by Court of Appeal – proceedings settled by consent – Commission subsequently made fresh decision concluding that Appellant had indeed been unlawfully arrested – Appellant subsequently wrote book "I Fought The Law" about case.

NM (Afghanistan) v SSHD [2007] EWCA Civ 214

Whether act of obtaining passport from Embassy in London meant that Appellant had voluntarily re-availed himself of State protection under Article 1C(1) of Refugee Convention.

R (Iran) and Others v SSHD [2005] EWCA Civ 982, [2005] INLR 633

Led by Manjit Gill QC – section 101 of Nationality, Immigration and Asylum Act 2002 – jurisdiction of Immigration Appeal Tribunal to consider appeal on point of law only – leading authority on what constitutes error of law.

Ahmed Benkaddouri v SSHD [2003] EWCA Civ 1250, [2004] INLR 1

Rule 33 of Immigration and Asylum Appeals (Procedure) Rules 2000 – repeated non-compliance by Home Office with Tribunal directions – whether asylum appeal should have been allowed without consideration of merits.

R (Q and Others) v SSHD [2003] EWCA Civ 364, [2004] QB 36

Led by Nicholas Blake QC – section 55 of Nationality, Immigration and Asylum Act 2002 – requirement to claim asylum "as soon as reasonably practicable" – withholding of benefits – Articles 3, 6 and 8 of ECHR – case attracted widespread media coverage and sparked debate on relationship between Home Secretary and judiciary.

R (Viktor Spiro) v Immigration Appeal Tribunal (CA) [2002] Imm AR 356

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Judicial review of decision of Immigration Appeal Tribunal – High Court judge considering application also President of that Tribunal – whether precluded on ground of perceived bias.

Ogle v Thames Valley Police [2001] EWCA Civ 598

Failure to maintain accurate entry on Police National Computer – wrongful arrest and false imprisonment – settlement with one of two joint tortfeasors – requirement for separate damage – principles relating to damages under Data Protection Act 1984.

Awards



Accreditations

- 1997 Blackstone Entrance Exhibition, Middle Temple
- 1997 Leonard Sainer Legal Education Foundation Scholarship
- 1998 Colombos Prize for International law, Middle Temple

Memberships

- Administrative Law Bar Association
- Human Rights Lawyers Association
- Immigration Law Practitioners Association

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Qualifications

- 1994-97 LL.B (Hons) 2.1, London School of Economics
- 1997-98 Bar Vocational Course, Inns of Court School of Law

Publications

- A Practical Guide to Presenting Asylum and Human Rights Claims
- 2003 Butterworths
- Co-author, with Manjit Gill QC as Consultant Editor.

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