

Herbert Anyiam

CALL: ENGLAND & WALES 1996; NIGERIA 1991

Herbert was called to the Bar of England & Wales in 1996 at Lincoln's Inn, having previously been called to the Nigerian Bar in 1991. He transferred to be a solicitor in England and Wales in 1998 and practised extensively as a solicitor during which he founded HiAce Solicitors. His specialist areas of practice include administrative / public law, human rights & civil liberties, employment rights, professional regulatory & disciplinary matters, public international law and international arbitration. His practice embraces civil and criminal matters including public law and human rights issues in the criminal justice system.

Herbert previously worked as an adviser with the Citizens Advice Bureaux Service from 1993 to 1996 where he advised and represented clients at more than 250 Tribunal hearings including Social Security Appeal Tribunals, Disability Appeals Tribunals, Medical Appeal Tribunals, Housing Benefit & Council Tax Review Boards, Employment Tribunals, as well as assisting clients to seek redress for maladministration by public bodies. He subsequently worked as an Adviser / Solicitor at Plumstead Law Centre from 1996 to 1999 where he advised and represented clients in more than 200 appeals before various Tribunals and the Criminal Injuries Compensation Board as well as acting for clients in judicial review proceedings, appeals to the Court of Appeal and assisting clients with complaints of maladministration to various ombudsman schemes.

As a solicitor, Herbert conducted complex casework and supervised various areas of law including Criminal Appeals & Reviews, Prison Law, Community Care, Welfare Rights and Immigration. He was an accredited senior caseworker and supervisor under the Law Society's Immigration & Asylum Accreditation Scheme. He has the rare expertise in dealing with complex immigration matters and salvaging immigration cases damaged by previous shoddy advice. He has versatile and extensive experience in advising and representing clients in the initial stages of civil and criminal proceedings in the County Court, Magistrates and Youth Court as well as complex proceedings in the High Court, Crown Court and Court of Appeal. He has represented hundreds of clients before the First Tier and Upper Tribunals in various areas including Social Security, Immigration and Employment Tribunals as well as representing prisoners at Adjudication and Parole Board hearings.

Herbert is highly proficient in conducting judicial review proceedings with an impressive portfolio in successfully obtaining emergency injunctions (in deserving cases) to stop or prevent unlawful acts or omissions of public bodies including Local Authorities, the Home Office and other public bodies. He has conducted several judicial review claims against public bodies most of which have been settled by consent before court hearings. He has a distinct expertise in negotiating and drafting the terms of consent orders to protect the interest of his clients.

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From his vast experience in identifying and challenging maladministration and unlawful acts and omissions by public bodies from both sides of the legal profession, Herbert has developed an expertise in advising and assisting professionals facing regulatory and disciplinary action by their regulators. He is particularly adept in providing advice and assistance to solicitors facing investigations and disciplinary action by the Solicitors Regulation Authority (SRA) as well as representation before the Solicitors Disciplinary Tribunal (SDT). He also has a unique expertise in advising and assisting solicitors to identify and challenge unlawful decisions / acts of the Legal Aid Agency (LAA) including representation before the LAA's Contract Review Body.

Herbert is also versed in challenging administrative decisions of public bodies which involve application of public international law instruments with specialisation in public international maritime law. He is a graduate of the International Maritime Organisation (IMO) International Maritime Law Institute in Malta, a member of the IMO Rota of Expert Consultants, a member of the Chartered Institute of Arbitrators and a Supporting Member of London Maritime Arbitrators (LMAA).

Herbert returned to the Bar in 2017 as a practising barrister and specialises in the following areas of work:

Professional Regulatory and Disciplinary matters

- Advising / assisting solicitors in regulatory investigations and disciplinary action by SRA.
- Representation before the SDT.
- Advising / assisting medical and other professionals in dealing with regulatory investigations and disciplinary action by regulators.

Administrative and Public Law

With emphasis on identifying and challenging unlawful decisions / acts and omissions of public bodies by way of appeals and judicial review including:

- Immigration, nationality, asylum, human rights and EU immigration law.
- Local Authority community care decisions and public law child care proceedings.
- Welfare Benefit decisions by the Department for Works and Pensions.
- Challenging sanctions, contract notices and other unlawful decisions of the Legal Aid Agency against solicitors.
- Challenging public law and human rights issues in the criminal justice and prison system.

Crime, Extradition, Confiscation Proceedings and Prison Law:

- Defending clients in criminal prosecutions.
- Representing clients in Extradition proceedings.
- Defending clients in confiscation proceedings.
- Providing advice and representation in criminal appeals & reviews.
- Representing clients at Prison Adjudication and Parole Board hearings.

Employment Rights:

- Providing advice and assistance to clients on contentious and non-contentious employment matters including discrimination, victimisation and harassment; unfair and wrongful dismissals; breach of contract; unlawful deduction in wages; disputes arising from redundancies and TUPE; whistle blowing, etc.
- Providing advice and drafting of settlement agreements.
- Representing clients before the Employment Tribunals.

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Public International Law:

- International Maritime Regulatory Compliance.
- Representing clients in maritime regulatory enforcement actions / defending criminal prosecutions by the Maritime and Coast Guard Agency.
- Disputes arising from nationality and registration of vessels.
- Maritime Security and Piracy.
- Law of the Sea.
- International Administrative law.

International Arbitration:

- International dispute resolution services.
- International Investment Disputes.

NOTABLE CASES CONDUCTED AS A BARRISTER:

Law Society -v- OA(2018) High Court, Business & Property Court: Adequacy of undertaking as to damages upon Law Society's application for an order to be made against the defendant pursuant to paragraphs 9(4), 9(5A) and 10(1) of Sch 1 to the Solicitors Act 1974 following intervention. Financial undertaking offered by the Law Society doubled by the court.

Sec. of State for Home Dept -v- TY & Dependants(2018) Upper Tribunal, Immigration and Asylum Chamber; determination of the First Tier Tribunal allowing appeal of a family with a child over 7 years old affirmed, relying on UN Convention on Rights of the Child 1989 and Article 8 of ECHR.

MH -v- TFL (2018) Kingston Crown Court: Acting for TFL in an appeal against conviction for fare evasion.

R -v- HD(2018) Portsmouth Crown Court: Suspended sentence for defendant following guilty plea to charges of ABH, affray and assault by beating.

R-v-MM(2018) Bristol Crown Court: Suspended sentence for defendant following guilty plea to a charge for breach of restraining order.

R-v- DB(2018) Harrow Crown Court: Mitigation to secure reduced sentence of 24 months for defendant following guilty plea to charges of burglary, fraud and handling stolen goods.

R-v-ME(2018) Bexley Magistrates Court: Successful challenge for lack of proper identification carried out by the Police before charge. Prosecution discontinued.

R-v-AN(2018) Highbury Magistrates Court: Acquittal of defendant with successful opposition to Prosecution's application for an adjournment to secure attendance of a witness.

R-v-AF (2017) Bromley Magistrates Court: Acquittal of defendant charged with theft of goods valued at £5k with successful submission of no case to answer based on the second limb of Galbraith test.

R-v-BS(2017) Croydon Magistrates Court: Secured acquittal at trial for defendant charged with theft.

R-v-KI(2017) City of London Magistrates: Secured acquittal at trial for defendant charged with possession of offensive weapon / bladed article in a public place.

R-v-MW(2017) Camberwell Magistrates Court: Securing acquittal at trial for defendant charged with common assault and obstructing a constable.

R-v-MS(2017) Chelmsford Magistrates Court: Successful negotiation with prosecution to discontinue action for charges of theft and criminal damage on the grounds that it is not in the public interest.

R-v-MO(2017) Stratford Magistrates: Acquittal of defendant with successful opposition to Prosecution's application for an adjournment to secure attendance of a witness.

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NOTABLE CASES CONDUCTED AS SOLICITOR:

Community Care / Welfare Rights

R -v- Greenwich London Borough Council Ex parte Moulton [1998] EWCA Civ. 1048, Judicial Review appeal, challenging decision of the Housing Benefit Review Board.

R -v- The Benefits Agency Ex parte JR (1999): Judicial Review claim, Administrative Court: challenging refusal of Disability Living Allowance.

R (on the application of GS) -v- LB Merton and National Asylum Support Service (2002) Administrative Court: Judicial Review claim; obtaining emergency injunction to prevent the council from terminating support for subsistence and accommodation for a single parent / nursing mother of two young child who was diagnosed as HIV positive.

R (on the application of VL) -v- LB Lambeth(2002) Administrative Court: Judicial Review claim challenging refusal of the council to carry out community care assessment for a single parent / mother with no recourse to the public funds, whereas the child is a British citizen. Compelling the council to provide interim support pending assessment.

R (on the application of HF) -v- LB Wandsworth (2003) Administrative Court: Judicial Review claim; challenging refusal of the council to carry out community care assessment for an asylum seeker with mental disability and compelling the council to provide interim support pending assessment.

R (on the application of EK) -v- LB Croydon & National Asylum Support Service(2003) Administrative Court: Judicial Review; Obtaining emergency injunction to compel the council to provide emergency accommodation for a 16 year old female unaccompanied minor asylum seeker after she was asked to leave her hostel accommodation on the basis that NASS had stopped payments.

R (on the application of EO) -v- LB Croydon (2004) Administrative Court: Judicial Review; obtaining emergency injunction against the council to provide accommodation and subsistence for a single parent with no recourse to public funds because she did not satisfy the Habitual Residence test.

LB Croydon -v- JT(2004) Croydon County Court: successful challenge against decision of the council to evict a mentally disabled client from her home following complaints of nuisance by her neighbours.

R (on the application of CB) -v- LB Croydon(2005) Administrative Court: Judicial Review claim against the council for refusing to carry out any (or adequate) community care assessment for a severely disabled client in a wheelchair threatened with eviction from temporary accommodation. Secured compliance with terms of agreed consent order by service of Penal Notice on the Chief Executive and Director of Social Services for the council.

R (on the application of BS) -v- LB Croydon(2006) Administrative Court: Judicial Review claim; challenging refusal of the council to carry out community care assessment for a single mother who faced imminent homelessness; compelling the council to provide interim support pending assessment.

R (on the application of 'H' Solicitors) -v- Legal Services Commission(2010) – Administrative Court: Judicial Review claim; challenging disputed Peer Review result. Matter was settled by consent for another Peer Review exercise to be carried out.

R (on the application of HA) -v- LB Croydon(2012) Administrative Court: Judicial Review; challenging refusal of the council to withdraw liability order for business rates billed to the wrong party. Matter was settled by consent after the council agreed to withdraw the bills for business rates.

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Immigration / Asylum

R -v- Sec. of State for Home Dept. Ex parte MA (1999) Administrative Court: Judicial Review claim resulting in recognition of the claimant as a refugee on grounds of being a Somalian of the Bravanese minority ethnic group. Settled by consent with payment of compensation to the claimant for being detained in prison from date of arrival in the UK.

Sec. of State for Home Dept. -v- Z, A & M (2002) EWCA Civ.952 (represented "A" in a conjoined appeal); Court of Appeal allowed appeal by "A", a Zimbabwean homosexual asylum seeker on the grounds that his removal from the UK will separate him from his partner; therefore expulsion of "A" will interfere with his Article 8(1) rights under the ECHR.

R (on the application of AD) -v- Sec of State for Home Dept. (2002) Administrative Court: Judicial Review; obtained emergency injunction to stay scheduled removal of an Albanian asylum seeker on the basis that only the refugee convention (but not the human rights) aspects of the claim was considered.

MO -v- Sec of State for Home Dept.(2002) Court of Appeal Civil Div. appeal against refusal of asylum on grounds of imputed political opinion in Nigeria.

R (on the application of SG and dependant) -v- Sec. of State for Home Dept.(2003) Administrative Court: Judicial Review; challenging refusal of asylum for a Ugandan single parent / father and dependent child.

MM -v- Sec. of State for Home Dept. (2003) Court of Appeal Civil Div. Appeal against refusal of asylum / leave to remain on humanitarian grounds for a Ugandan national on the basis that removal will disrupt her ongoing psychiatric treatment in the UK.

BK -v- Sec. of State for Home Dept. (2004) Court of Appeal Civil Div. Appeal against refusal of asylum for Zimbabwean national in receipt of medical treatment following diagnosis of HIV.

R (on the application of SG) -v- Sec. Of State for Home Dept. (2004) Administrative Court: Judicial Review claim; obtaining emergency injunction to stay removal of a South African national whose wife was lawfully in the UK as a work permit holder.

R (on the application of EL) -v- Sec of State for Home Dept. (2005) Administrative Court: Judicial Review claim against removal directions for a failed asylum seeker from Uganda on grounds of Article 8 rights. Settled by consent with offer of limited leave to remain.

R (on the application of EM) -v-Sec. of State for Home Dept.(2005) Administrative Court: Judicial Review; obtained emergency injunction to stay the removal of the claimant to Jamaica on grounds of disputed identity / nationality.

R (on the application of RM) -v- Sec. of State for Home Dept. (2006) Administrative Court: Judicial Review; obtained emergency injunction to stay removal of a Ghanaian national with a child who is a British citizen. Settled by consent.

Sec. of State for Home Dept -v- BM (Nigeria) (2006) Court of Appeal Civil Div; Appeal against decision of the Upper Tribunal to set aside the First Tier Tribunal's determination which allowed the appellant's appeal against refusal of leave to remain / settlement as a pensioner who had lost her indefinite leave to remain.

FG (Liberia)-v- Sec. of State for Home Dept. (2008) Court of Appeal Civil Div. Appeal against refusal of leave to remain for a mentally ill / failed asylum seeker married to a British citizen with children who are British citizens. Matter was settled by consent.

R (on the application of EA) -v- Sec of State for Home Dept. (2008) Administrative Court: Judicial Review claim to compel the secretary of state to implement determination of the Upper Tribunal following inexplicable delay. Matter was settled by consent.

R (on the application of FQ) -v- Sec. of State for Home Dept. (2009) Administrative Court: Judicial Review claim to compel the Secretary of State to implement the determination of the First Tier Tribunal. Matter was settled by consent.

DC -v- Sec. of State for Home Dept.(2010) Court of Appeal: Challenging deportation order on grounds of criminal conviction for French national who had lived continuously in the UK since age of 10.

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Crime, Extradition and Prison Law

R-v- KA (2005) Croydon Crown Court: Contempt Proceedings.
R-v- RH(2005) Isleworth Crown Court: Importation of Class A Controlled Drugs.
HMRC-v-OD(2005) Haywards Heath Magistrates Court: Cash Forfeiture proceedings.
R-v-EO(2005) Isleworth Crown Court: importation of class A Controlled Drugs.
R-v- SO(2005) Wood Green Crown Court: possession and supply of Class A Controlled drug.
R-v- LS(2006) Isleworth Crown Court: use of false immigration document.
R-v-OB(2006) Croydon Crown Court: use of false immigration document, obtaining pecuniary advantage by deception.
R -v- EO(2006) Isleworth Crown Court: Confiscation Proceedings.
R -v- OA(2006) Lewes Crown Court: use of false immigration document.
R-v-AO(2006) Guildford Crown Court: use of false immigration document; obtaining pecuniary advantage by deception.
R -v- AS(2006) Lewes Crown Court: use of false identity
R-v-AA(2007) Snaresbrook Crown Court: use of false immigration document, obtaining pecuniary advantage by deception.
R (on the application of MD) -v- Parole Board & Sec. of State for Justice (2007) Administrative Court: Judicial Review claim against refusal of parole. Matter settled by consent.
EQ-v-R (2007) Court of Appeal: Conviction for breach of trust / theft from employer quashed by introducing new evidence with *Gogana* affidavit.
NHS-v-HM(2008) Guildford Crown Court; use of false document and obtaining pecuniary advantage by deception.
R-v-TS(2008) Kingston Crown Court: securing acquittal for robbery.
R-v- GRCourt of Appeal (2008): Life sentence for murder; tariff reduced from 21 to 19 years.
R (on the application of VM) -v- Governor of HMP Maidstone (2008)Administrative Court: Judicial Review against refusal to implement categorisation as a category D prisoner.
R-v- MS (2008) Court of Appeal: application to review conviction & life sentence for legacy case of double murder.
R (on the application of MN) -v- Governor of HMP Wormwood Scrubs(2008) Administrative Court: Judicial Review claim against refusal to implement categorisation as a category D prisoner.
DWP -v- PS (2009) Croydon Crown Court: non-custodial sentence following guilty plea to charge of benefit fraud.
R (on the application of FD) -v- Governor of HMP Maidstone(2009) Administrative Court: Judicial Review claim against refusal to release on licence.
R -v- JD(2009) Court of Appeal: 14 years sentence for importation of Class A Controlled Drugs reduced to 10 years.
DWP -v- FJ(2009) Croydon Crown Court: Appeal against conviction for benefit fraud.
R-v- SB(2009) Kingston Crown Court: Acquittal for charge relating to sexual offence against a minor.
DWP -v- IA(2009) Croydon Magistrates Court: Benefit fraud. Persuaded DWP to discontinue prosecution of a single parent who was training to be a teacher on the grounds that prosecution was not in the public interest and that matter could be dealt with by Administrative Penalty.
R-v- BB(2010) Basildon Crown Court: Acquittal for credit card fraud.
R-v- JR(2010) Croydon Crown Court: use of false identity.
R-v- AO(2010) Inner London Crown Court: Confiscation Proceedings.
R-v- JD(2010) Blackfriars Crown Court: Confiscation proceedings
The District Court in Siedlce, Poland -v- AM (2009): Successful challenge against request for extradition by the Polish Authorities.
SC -v- The District Court of Marijampole, Lithuania(2010) Administrative Court: Extradition, successful appeal against order of City of Westminster Magistrates Court.

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EDUCATION AND TRAINING

University of Lagos, LLB (Hons) 1990

Nigeria Law School, Bar Finals 1991

Bar Finals (England & Wales) 1996

Law Society's Qualified Lawyers Transfer Test (QLTT) 1998

Membership of the Chartered Institute of Arbitrators 2012

IMO International Maritime Law Institute, Malta, LLM 2012

PROFESSIONAL ASSOCIATIONS / MEMBERSHIPS

Barrister of England & Wales, Lincoln's Inn

Barrister & Solicitor of the Supreme Court of Nigeria

Member of the Chartered Institute of Arbitrators

Member of Association of Regulatory & Disciplinary Lawyers

Member IMO Rota of Expert Consultants

Supporting Member London Maritime Arbitrators Association (LMAA)

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