**IN THE SUPREME COURT**

**ON APPEAL FROM THE COURT OF APPEAL (CIVIL DIVISION)**

**BETWEEN:**

1. **BJ (LALA LAND)**
2. **DR (ATLANTIS)**

**Appellants**

* **And –**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

**Respondent**

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**MOOT PROBLEM**

**Second Semi-Final, Rosamund Smith Mooting Competition, 24.6.19**

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1. Boris and Dominic are both failed asylum seekers from Lala Land and Atlantis respectively who have had their applications for leave to remain refused by the Secretary of State. Their appeals were dismissed both at first instance and by the Court of Appeal. The Supreme Court has granted permission to appeal on two grounds identified below.
2. Both appellants have serious illnesses. Boris, who is aged 30, has had treatment for Hodgkin’s Lymphoma in London, and the disease is in remission. If it recurs he may need a stem cell transplant, which is available without cost in the United Kingdom, subject to meeting the relevant criteria and finding a suitable donor. Internet research indicates that stem cell transplants may be available in Lala Land.
3. Dominic is aged 54 and has HIV, which he contracted in the 1980s. It is well-controlled on the latest medication available in the UK, which avoids the extremely unpleasant and life-threatening side effects which all other medication had previously caused him. The latest medication is not available without significant cost in Atlantis, and it is unclear on the evidence whether Dominic has sufficient funds to be able to afford it.
4. Although neither Boris nor Dominic is currently ill, their life expectancies may be significantly affected by removal to their home countries. Unchallenged medical evidence indicates that removal is likely to reduce Boris’ life expectancy by 12 years, and Dominic’s life expectancy by 8 years.
5. The Court of Appeal dismissed Boris’ and Dominic’s asylum appeals, and their claims under Articles 3 and 8 of the European Convention on Human Rights.
6. The appellants have permission to argue the following points that return to their home countries would breach Article 3 of the European Convention on Human Rights, in each case, for the following reasons:
   1. Their clinical conditions meet the test(s) for Article 3 in *Paposhvili v Belgium* (Application no. 41738/10).
   2. The Supreme Court should refuse to follow the decision of the House of Lords in *N v Secretary of State for the Home Department* [2005] 2 AC 296 and should follow *Paposhvili v Belgium*.

**Moot set by Vikram Sachdeva QC**

**18 June, 2019**