

**IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
ADMINISTRATIVE COURT**

BEFORE HIS HONOUR JUDGE DIGHT CBE

BETWEEN



THE QUEEN

On the Application of

(1) JTW

(2) SBF (Acting by her litigation friend JTW)

Claimants

- and -

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Defendant

ORDER

Before His Hon Judge Dight, sitting as a Judge of the High Court

UPON considering the confidential advice on settlement provided to the court by the Claimants

AND UPON considering the sealed Order dated 31 May 2022, which set out the terms of settlement of these proceedings subject to approval of the settlement terms for the Second Claimant, and the Statement of Reasons annexed to that Order

AND UPON hearing from counsel for the parties at the approval hearing on 29 June 2022

IT IS ORDERED THAT:

1. The settlement for the Second Claimant, SBF, in the terms set out in the Order dated 31 May 2022, is approved and final.

2. The investment directions in respect of SBF's damages set out in the Order dated 31 May 2022 are approved.

DATED: 29th June 2022

BY THE COURT



**IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
ADMINISTRATIVE COURT**

CO/2509/2021

BETWEEN

**THE QUEEN
On the Application of
(1) JTW
(2) SBF (Acting by her litigation friend JTW)**

Claimants

- and -

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Defendant

ORDER

UPON the parties agreeing to the attached statement of reasons

AND UPON the parties having agreed to the terms set out below

AND SUBJECT TO the court approving the settlement for the Second Claimant pursuant to CPR 21.10

IT IS ORDERED THAT:

1. The Defendant will pay to the First Claimant, JTW, the sum of £2,000 in full and final settlement of the First Claimant's claim by 2 June 2022.
2. The Defendant will pay to the Second Claimant, SBF, the sum of £2,000 in full and final settlement of the Second Claimant's claim within 21 days of the date of the Order approving settlement.

3. Such sums in paragraph 2 to be paid into and retained in Court and invested for the Second Claimant as a child, in accordance with the Form 320.
4. Upon the Second Claimant attaining the age of eighteen her funds will be transferred to her and the proceeds paid to her or as she shall direct.
5. The solicitors for the Claimants having undertaken to waive any claim in respect of its solicitor/client costs in respect of the Second Claimant which are not recovered from the Defendant pursuant to paragraph 6 of the Order; it is hereby recorded that the entirety of the damages paid by the Defendant to the Second Claimant under paragraph 2 above shall be available for the Second Claimant and shall not be the subject of a first charge in favour of the Legal Aid Authority.
6. The Defendant do pay the Claimants' reasonable costs of the claim to be assessed if not agreed.
7. The Defendant will pay to the Claimants' solicitors an interim payment on account of costs in the sum of £10,000 within 21 days of the sealed Order.
8. The remainder of the costs payable under paragraph 6 of the order to be paid within 21 days of the date of the agreement on costs. Alternatively, the Defendant will pay to the Claimants' solicitors assessed costs within 21 days of the Order approving settlement.

IT IS FURTHER ORDERED THAT:

9. There will be a hearing for the approval of the Second Claimant's settlement pursuant to CPR 21.10 on the first available date before 26 July 2022 with a time estimate of 1 hour.
10. Subject to the court's approval of the Second Claimant's settlement the Claimants do have permission to withdraw their judicial review claim CO/2509/2021.
11. There be a detailed assessment of the costs of the Claimants' publicly funded costs.

12. There be liberty to apply as to carrying the terms set out herein into effect.

We, the solicitors for the parties, on their behalf and upon their instructions, hereby confirm our consent to an order on the terms set out above.

Signature:

Bhatt Murphy

Signature:..... *Louise Bloor* ...

Bhatt Murphy
10 Tyssen Street
London E8 2FE

Government Legal Department
One Kemble Street
London, WC2B 4TS

Claimants' Solicitor
Ref: JAF/9025

Defendant's Solicitors
Ref: Z2109395

Neil Cameron

Order approved by Neil Cameron QC sitting as a Deputy High Court Judge 23rd May 2022

BY THE COURT

Statement of Reasons

1. On 16 April 2021 the First Claimant (C1), a Ghanaian national with limited leave to remain, and her British citizen daughter (C2), DOB 31 May 2010, were stopped, examined and detained by Border Force Officers on their return to the United Kingdom at Heathrow airport, pursuant to para 2 or 2A and 16 of Schedule 2 of the Immigration Act 1971 (“IA 1971”).
2. The Border Force Officer who stopped C1 questioned her about NHS debts she had accrued prior to regularising her immigration status. C1 explained that she was unable to pay the debt, but she intended to do so when she was able to. C1 and C2 were held in a waiting area whilst the officer conducted checks.
3. C1 was issued with an IS.81 form. The IS.81 form has not been disclosed because it is said by the Defendant that the Border Force does not keep physical copies. The IS.81 log entry was disclosed on 4 October 2021. Once the officer had conducted the required checks, C1 was told that they could proceed but that she needed to repay her NHS debts.
4. The present claim for judicial review was issued protectively on 16 July 2021. By a consent order sealed on 26 July 2021, the D agreed to provide a pre-action protocol response to the Cs’ letter before claim. Case management directions for the exchange of pleadings were agreed.
5. The D denied liability in her pre-action protocol response dated 16 August 2021. Following correspondence requesting the disclosure of the relevant guidance, the D wrote on 4 October 2021 providing an explanation of the relevant parts of the guidance. The letter said: *“Persons with continuing leave would not normally be refused entry for an outstanding NHS debt. However, officers should take up to date contact debts for the passenger and pass these on to the NHS trust. The person can be reminded that any outstanding debt may prevent any future leave being granted.”* The letter acknowledged that C1’s outstanding NHS debt was recorded on the Home Office systems in error as it did not meet the criteria for reporting. However it is said by the Defendant that once it was reported, its NHS Sanctions team would not have been aware of this and therefore C1 was examined upon entry in line with the procedures outlined for NHS debtors.

6. The Cs filed a Detailed Statement of Facts and Grounds on 26 October 2021. The Cs argued that C1's examination at the airport, on account of her existing NHS debt, and her detention for that purpose was unlawful in circumstances where she had valid leave to enter and remain in the UK. The Cs also argued that their case raises wider issues about the legality of the SSHD's operation of the relevant power to examine and detain for that purpose under Schedule 2 to the Immigration Act 1971.
7. D filed Summary Grounds of Defence on 14 December 2021, resisting the claim on all grounds. D argues that Immigration Officers exercised their powers in accordance with the law and that D's approach properly reflects the 1971 Act and the Immigration Rules.
8. The Cs filed a Reply on 20 December 2021.
9. Permission was granted on the papers by Mr C.M.G. Ockleton, the Vice President of the Tribunal, sitting as a High Court Judge, on 20 January 2022. He also made an Order for anonymity that C1 should be known as JTW and C2 as SBF.

Reasons for Order

10. D has agreed to pay the Cs compensatory damages in the sum set out in the agreed Order in full and final settlement of the claim for both Cs. No admissions have been made.
11. The consent order and proposed settlement for C2 are to be subject to the Court's approval.
12. D has agreed to pay the Cs' reasonable costs of the claim.

We, the solicitors for the parties, on their behalf and upon their instructions, hereby confirm our consent to an order on the terms set out above.

Date: 12.05.2022

Date:

Signature: 

Signature:..... 

Bhatt Murphy
10 Tyssen Street
London E8 2FE

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Ref: JAF/9025

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