



Neutral Citation Number: [2023] EWHC 2227 (Admin)

Case No: CO/1533/2023

IN THE HIGH COURT OF JUSTICE
KING'S BENCH DIVISION
ADMINISTRATIVE COURT

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 06/09/2023

Before :

DEXTER DIAS KC
(sitting as a Deputy High Court Judge)

Between :

O/A
(Anonymity Order granted)

Respondent/
Claimant

- and -

Secretary of State for the Home Department

Applicant/
Defendant

Ms Serena Sekhon (instructed by **Luke and Bridger Law**) for the **Respondent/Claimant**
Mr Tom Tabori (instructed by **Government Legal Department**) for the
Applicant/Defendant

Hearing dates: 6 September 2023

Approved Judgment

This judgment was delivered orally in Court on 6th September 2023 and by release to the National Archives.

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DEXTER DIAS KC

Dexter Dias KC :

(Sitting as a Deputy High Court Judge)

1. This is the judgment of the court.
2. This is an application for the extension of time to comply with an order for interim relief.
3. The claimant in the head claim and respondent to the application is OA. Her name and the names of her children have been anonymised by order of Lang J dated 15 May 2023. The claimant is represented by Ms Sekhon of counsel.
4. The defendant is the Secretary of State for the Home Department. The defendant is represented by Mr Tabori of counsel. The court is grateful to both counsel for their assistance.
5. This claimant is a national of Nigeria. On 29 November 2021, she applied for asylum in the United Kingdom. On the same day, she made an application for asylum support under s.95 of the Immigration and Asylum Act 1999. This section provides insofar as it is material:

95 Persons for whom support may be provided.

- (1) The Secretary of State may provide, or arrange for the provision of, support for—
 - (a) asylum-seekers, or
 - (b) dependants of asylum-seekers,who appear to the Secretary of State to be destitute or to be likely to become destitute within such period as may be prescribed.
- (2) In prescribed circumstances, a person who would otherwise fall within subsection (1) is excluded.
- (3) For the purposes of this section, a person is destitute if—
 - (a) he does not have adequate accommodation or any means of obtaining it (whether or not his other essential living needs are met); or
 - (b) he has adequate accommodation or the means of obtaining it, but cannot meet his other essential living needs.
- (4) If a person has dependants, subsection (3) is to be read as if the references to him were references to him and his dependants taken together.
- (5) In determining, for the purposes of this section, whether a person's accommodation is adequate, the Secretary of State—
 - (a) must have regard to such matters as may be prescribed for the purposes of this paragraph; but
 - (b) may not have regard to such matters as may be prescribed for the purposes of this paragraph or to any of the matters mentioned in subsection (6).

(6) Those matters are—

- (a) the fact that the person concerned has no enforceable right to occupy the accommodation;
- (b) the fact that he shares the accommodation, or any part of the accommodation, with one or more other persons;
- (c) the fact that the accommodation is temporary;
- (d) the location of the accommodation.

6. Thus the accommodation the Secretary of State provides or purports to provide must be “adequate”.
7. The claimant and her children were housed into temporary hotel accommodation. On 22 May 2022, the defendant granted the s.95 application. On 11 November 2022, the defendant accepted the need to disperse the family on an expedited basis from the temporary accommodation. There was no dispersal.
8. Following a protocol letter before action, the claimant filed a claim in judicial review that the court issued on 26 April 2023. On 20 June 2023, Richard Clayton KC, sitting as a Deputy High Court Judge, granted interim relief. The essential terms of his order for the purposes of this application are set out in paragraph 2:

“Pending further order or the conclusion of this claim, the Defendant shall provide the Claimant and her family with self-catered, fully wheelchair accessible dispersal accommodation with adequate space which is suitable to their personal circumstances and health and care needs, and which is in the London Borough of Croydon. The accommodation shall be made available and the move effected forthwith and in any event no later than Thursday 29 June 2023.”
9. The defendant now seeks an extension of a further 28 days to comply with this order, having been granted previous extensions. The claimant opposes such a prolonged extension.
10. The claimant is a mother with three children, including a new-born, delivered by Caesarean section. This impedes her ability to lift her 6 year-old son. He lives with very severe and heightened needs, including cerebral palsy (4 limb spasticity with dystonia and dyskinesia); severe-profound global difficulties/global developmental delay; being nonverbal; double incontinence; an unsafe swallow; epilepsy; and an inability to stand or walk.
11. I agree with the submission of Ms Sekhon that the inadequacy of the property is not limited to the level of care necessary for the claimant’s son. It runs wider. The report of the occupational therapist dated 2 August 2023 makes this absolutely plain. No one seriously disputes – or can dispute – that the present temporary accommodation is not “adequate” in statutory terms for a multiplicity of reasons.
12. As to the application before the court, the answer lies in the procedural history.
13. Following the grant of interim relief on 20 June of this year, the defendant sought and was granted an extension for compliance by Clive Sheldon KC, sitting as a Deputy

Judge of this court, on 7 July 2023. On 24 July, the Secretary of State sought another extension. On 7 August, another; and on 21 August, yet another. Following the last extension, the original judge adjourned the application pending an inter partes hearing, which is how, on 6 September 2023, the case comes before me.

14. I judge the application for a further extension of 28 days to be disproportionate.
15. The respondent-claimant seeks to limit the extension to 7 days, and while the court recognises the plight of the family, I anticipate that this will simply result in a further ineffective hearing. Thus, the balance that best protects this claimant and her vulnerable children is to extend time to 4pm on Wednesday 20 September. However, there must be an update filed and served by 4pm on 13 September, by way of sworn statement accompanied by a statement of truth by someone who is duly informed and properly acquainted with the facts.
16. The original order of this court directed the defendant to provide the dispersal accommodation - the physical accommodation itself - not to provide a timetable. The order of the High Court must be complied with. I emphasise that the court expects far more significant and sustained efforts by the Secretary of State and concrete evidence of progress. That is because by the expiration date, 3 months will have passed since this court ordered interim relief. Ten months will have passed since the defendant accepted the need for expedited dispersal. Sixteen months will have passed since the defendant granted the claimant's s.95 asylum support application.
17. In these circumstances, the patience - and indulgence - of the court may well be exhausted.
18. That is my judgment.