

IN THE COURT OF APPEAL, CIVIL DIVISION



REF: C4/2020/0251

[SEAL]

The Queen on the application of Detention –v– The secretary of State for the Home Department
Action

ORDER made by the Rt. Hon. Lady Justice Simler

On consideration of the application for interim relief
And on consideration of the papers and without an oral hearing

**Decision:****IT IS ORDERED THAT:**

1. Until further order the Defendant shall not remove any individual scheduled for removal on a charter flight to Jamaica due to leave the UK at or about 6:30 am on 11 February 2020 from the UK via IRC Colnbrooke and/or Harmondsworth unless satisfied that the individual in question had access to a functioning non- O2 Sim card on or before 3 February 2020.
2. A return date for a hearing shall be listed in the Administrative Court on 17 February 2020 or as soon as possible thereafter.
3. Liberty to apply.
4. Costs reserved.

Reasons

1. The defendant's own policy provides that "detainees being removed by charter flight subject to special arrangements must be given a minimum of five working days' notice of removal so that he or she may seek legal advice."
2. Given the difficulties in relation to the O2 mast outage since early January, the defendant has recognised the need to secure access to such legal advice and assistance through the provision of non- O2 Sim cards. However the defendant's evidence suggests that EE Sim cards to access legal advice and assistance were only provided to those scheduled for removal at 6:30 am tomorrow from and after 2:52 pm on 5 February, with the last recorded entry at 7:15 pm on 6 February 2020.
3. On that basis, the evidence suggests that of those scheduled for removal at 6:30am tomorrow, at best some individuals have had a functioning Sim card for three working days. At worst, the evidence indicates that some have still not received a functioning Sim card. Further, in light of the evidence filed by the claimant I cannot be confident that there were adequate alternative means of accessing legal advice and assistance during a minimum of five working days before the charter flight to Jamaica at 6:30 am tomorrow.
4. In the circumstances I am satisfied that the claimant has made out a clearly arguable case and that the balance of convenience weighs in favour of temporary relief pending a return hearing.
5. The relief I am prepared to order is more limited than that sought by the claimant and is limited to those scheduled to be removed at 6:30am tomorrow (11 February) on the flight to Jamaica.

Notes:

- 1) Where an application (other than an application for permission to appeal) has been refused on the papers, the applicant may request that the decision be reconsidered.
- 2) An application for reconsideration must be filed within 7 days after the party is served with notice of the decision.
- 3) The reconsideration will be determined by the same or another judge on paper without an oral hearing; except that the judge determining the reconsideration on paper may direct that the reconsideration be determined at an oral hearing, and must so direct if the judge is of the opinion that the reconsideration cannot be fairly determined on paper without an oral hearing: see CPR 52.24.

By the Court

Date: 10 February 2020

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