Neutral Citation Number: [2025] EWHC 3291 (Admin)

Case No: AC-2025-LON-003788

IN THE HIGH COURT OF JUSTICE
KING'S BENCH DIVISION

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 15 December 2025

Before :

MR JUSTICE CONSTABLE

- -

Between :

R (FD)

Claimants

- and -

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Defendants

PRESS SUMMARY

Introduction

1. The Claimant, FD, challenged three decisions by the Secretary of State for the Home Department (SSHD) that prevented FD, a long-term UK resident, from returning to the UK from Turkey in September. FD argued these decisions were unlawful, procedurally unfair, and breached rights under the Immigration Act 1971 and Article 8 ECHR.

Factual Background

2. FD is a Jamaican national who arrived in the United Kingdom as a visitor in 1993. In 1998 he was granted Indefinite Leave to Remain (ILR), but later faced deportation proceedings due to a criminal conviction. In 2006, FD became subject to deportation proceedings. However, on 20 December 2006, the Asylum and Immigration Tribunal allowed FD's appeal against deportation, and on 25 September 2007, ILR was restored. FD was re-issued with ILR on 14 August 2012.

3. FD again faced automatic deportation in 2016 following a serious criminal conviction. This had the effect of revoking his ILR. In 2017 SSHD refused FD's Human Rights claim. FD's appeal against this decision was dismissed by the First-tier Tribunal (IAC)

on 15 June 2018, and the Upper Tribunal (IAC) dismissed a further appeal on 29 April 2019. By 26 November 2019, FD had submitted a Protection (Asylum) and Human Rights Claim, which SSHD treated as a Stage 3 application to revoke deportation ('the 2019 Claim'). FD was placed on immigration bail with reporting conditions. In 2020, due to the pandemic, SSHD advised FD not to report until further notice.

4. Little progress was made with the 2019 Claim for a number of years. On chasing the Home Office, FD was told in 2023 that the fastest way to get a decision was to submit a No Time Limit ('NTL') application. FD was in fact not entitled to do so as his ILR had been revoked. However, in December 2024, FD received an email from SSHD which unambiguously communicated to him that his NTL application had been successful, that he had ILR, and that his immigration bail had ceased. He was invited to apply for an eVisa. He did so and this confirmed his status was 'settled'.

5. FD relied upon this when obtaining a visa and travelling to travel to Turkey for a short holiday in September 2025. On attempting to return, FD was refused boarding pursuant to a decision made by SSHD under the Authority to Carry (ATC) Scheme 2023, a scheme created pursuant to the Counter-Terrorism and Security Act 2015 ('the 2015 Act'). A few days later his eVisa was removed by SSHD without notice. A few days later still, whilst FD was unable to return to the UK, SSHD notified her refusal of the 2019 Claim.

The Claim

6. The Grounds of Challenge were:

   (1) **Unlawful Application of ATC Scheme:** The ATC Scheme, designed for terrorism-related threats, was unlawfully applied to FD, who posed no such threat.

   (2) **Undermining Statutory Rights:** The refusal undermined rights granted under the Immigration Act 1971.

   (3) **Procedural Unfairness and Abuse of Power:** The decision was based on factual errors and failed to consider relevant matters.

   (4) **Defeat of Legitimate Expectation:** FD had a legitimate expectation, based on SSHD's communications, that he could return to the UK.

   (5) **Article 8 ECHR Breach:** The refusal unjustifiably interfered with FD's and his family's private life.

   (6) **Unlawful Withdrawal of eVisa:** The eVisa was withdrawn without notice or opportunity to make representations.

   (7) **Unlawful Refusal of 2019 Claim:** The claim was refused while FD was unlawfully excluded from the UK, affecting his appeal rights.

The Decision

7. **Grounds 1, 2 and 3:** (See paragraphs 27-51) The ATC Scheme was unlawfully applied to FD. It is overwhelmingly clear that the provision of significant powers to the State pursuant to the 2015 Act was very specifically targeted at dealing with the threat of

terrorism. The powers are broad. Both parliamentarians and the public alike would no doubt have been reassured by the context and explanatory guidance relating to the 2015 Act that such broad powers only arose from, and was justified by, and would be exercised pursuant to the public interest in meeting the stated 'real and ongoing threat from terrorism' (see paragraph 41)

8. It is in light of this clear object that the words 'only if it is necessary in the public interest' used section 22(3) of the 2015 Act must be construed. It follows that the decision to invoke the ATC Scheme to prevent FD, a person who poses no terrorism-related threat, from returning to the UK was an unlawful one, and should be quashed. (Paragraphs 42-3).

9. Even if this were not the case, the decision to refuse entry was made on a wholly misconceived factual basis and was irrational (see paragraphs 44-50).

10. **Ground 4:** SSHD's December 2024 email and grant of eVisa created a legitimate expectation that (1) he had ILR; (2) his deportation order had been revoked and (3) he was free to travel to and from the UK (in accordance with ILR, for a period up to two years) without further clearance. (See paragraphs 67-72). FD relied on this to his detriment (see paragraphs 73-75). It would be both grossly unfair and disproportionate to permit SSHD to depart from the legitimate expectation on the part of FD that upon exiting the UK for a short period on holiday, he would be permitted to return (see paragraph 82). That said, where: (1) the provision of the December 2024 Email was a mistake; (2) there is plainly very significant public interest in the revocation of automatic deportation orders imposed by reason of serious criminal conduct being determined, if at all, by way of conscious and substantive administrative (and potentially judicial) decision making rather than by mistake; (3) there has been no broader reliance on the December 2024 Email (other than in respect of the expectation of an ability to return to the UK) it is both fair and proportionate for SSHD to be permitted to depart from the mistaken grant of ILR (and implicit revocation of deportation order) in the December 2024 Email. By reason of this, SSHD would be entitled to re-impose immigration bail upon FD's arrival pending the outcome of the resolution of the 2019 Claim.

11. **Ground 5:** The refusal to allow FD's return was unlawful by reason of the findings under Grounds 1 and 4. This therefore constituted an unjustified interference with his Article 8 rights. It bears emphasis that the only relevance of Article 8 to the outcome of the case is a potential claim for damages. The substantive grounds upon which the SSHDs's actions were unlawful are not dependent upon Article 8.

12. **Ground 6:** The withdrawal of the eVisa was unlawful insofar as it prevented FD's return, given the legitimate expectation created.

13. **Ground 7:** The refusal of the 2019 Claim while FD was unlawfully excluded was unlawful due to its timing, which materially affected FD's appeal rights.

Conclusion

14. The SSHD's actions in refusing authority to carry, withdrawing the eVisa, and refusing the 2019 Claim while FD was excluded from the UK were unlawful and are quashed. Upon FD's return to the UK, immigration bail may be re-imposed. At this point, it is

open to SSHD to issue its decision in respect of the 2019 Claim. Thereafter it will be for the proper process to resolution of the 2019 Claim to take its course, which may or may not lead to the lawful deportation of FD.