



Project for the Registration of Children as British Citizens (PRCBC)
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Case Note on *Ojeh v SSHD*, CO/4869/2020

Settlement of Test Case: Registration as a British citizen by discretion under section 3(1), British Nationality Act 1981 (BNA 1981)

1. By a Consent Order sealed by the High Court on 26 April 2021 in judicial review proceedings (CO/4869/2020) brought by a child represented by solicitor Solange Valdez-Symonds,¹ the Secretary of State agreed to several important commitments concerning applications for registration under section 3(1).
2. Previously by an Order made by Sir Wyn Williams, the Claimant had been granted permission to apply for judicial review, listed to be heard on an expedited basis as a test case concerning the lawfulness of the Secretary of State's policy and practice on section 3(1) registration applications.
3. By the Consent Order and a witness statement, the Secretary of State has agreed to the following:
 - a. Register the Claimant as a British citizen within 2 months of the sealing of the Order (subject to background checks);
 - b. Review her policy on section 3(1) registration applications (as currently set out in version 6 of *Registration as a British citizen: children*) with the aim of publishing a revised policy by the end of July 2021;
 - c. Not to refuse any section 3(1) registration applications pending the completion of that review;
 - d. Continue to grant section 3(1) registration applications that would normally be granted under version 6 of *Registration as a British citizen: children*.
 - e. Pay the Claimant's costs of the judicial review proceedings;

¹ Solange Valdez-Symonds represented the Claimant as a consultant solicitor of Cardinal Hume Centre.



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Settlement of similar claims:

4. In the same week as agreeing to this Consent Order, the Secretary of State has settled four other judicial review claims of young people, who were also represented by Solange Valdez-Symonds before the High Court,² agreeing to register each claimant as a British citizen under section 3(1) and to pay the judicial review costs of each.

Background to these settlements and the Project for the Registration of Children as British Citizens' (PRCBC) experience of section 3(1) registration:

5. All five of these settled claims concern section 3(1) registration applications made by minors, who were not born in the UK, whose parents are neither settled nor British citizens, who are not themselves settled, but who have spent a substantial part of their lives in the UK.
6. PRCBC has, since its founding in November 2012, successfully assisted hundreds of minors in similar circumstances to be registered as British citizens under section 3(1). This has often required a pre-action letter or the issue of a judicial review claim. In so doing, PRCBC has both gained and relied upon a wealth of experience:
 - a. Preparing section 3(1) registration applications of minors brought to the UK at a young age who have grown up in the UK connected to this country and with British identities;
 - b. Preparing and presenting judicial review claims brought against decisions to refuse registration of these minors under section 3(1);
 - c. Collating and presenting evidence to show the importance of registration to these minors including evidence of the impact of growing up in the UK with a British identity but without British citizenship and the impact of prolonged and repeated refusal of their registration; and
 - d. Securing several Orders granting permission to apply for judicial review and Consent Orders agreeing to register the claimants.

Advice to practitioners:

7. As regards outstanding section 3(1) registration applications (whether pending with the Secretary of State or the subject of outstanding claims before the Court):
 - a. Practitioners should note that minors, whose applications meet what are treated under the Secretary of State's policy as 'normal' criteria for registration, should

² Two of the Claimants were represented by Solange Valdez-Symonds as solicitor of PRCBC and two of the other Claimants were represented by Solange Valdez-Symonds as a consultant of Cardinal Hume Centre.

continue to be registered under section 3(1). However, **no** application for registration under section 3(1) should be refused unless and until the Secretary of State has published her revised policy. Practitioners may wish to bring this to the attention of the Secretary of State in relation to any new or currently outstanding application.

- b. Practitioners may wish to seek settlement of any outstanding claim for judicial review concerning section 3(1) registration; and may wish to draw the Secretary of State's attention to the information contained in this note and/or the appended documents.
8. PRCBC has over the years shared several resources concerning preparation and presentation of applications for registration under section 3(1). These resources should now be considered in the light of this note. There are a variety of circumstances in which it may be appropriate for a child to be registered as a British citizen under section 3(1) including where the child's circumstances do not meet what the Secretary of State's current policy regards as 'normal' criteria for registration. In such circumstances, clear evidence as to the child's connection in the UK and best interests is likely to be critical.
 9. PRCBC and the legal team will be providing further training and information on these matters in due course.

Final matters:

10. PRCBC will continue to monitor the Secretary of State's practice concerning section 3(1) registration and is grateful to practitioners sharing their experience of such applications. PRCBC would like to emphasise the need to ensure that applications for registration under section 3(1) are well argued and evidenced and strongly encourages practitioners to familiarise themselves with the resources and information that PRCBC continues to share.
11. The Secretary of State's agreement to review her policy has been secured by litigation of claims brought by children assisted by PRCBC over more than eight years, including the five claims referred to in this note. Pending the outcome of the Secretary of State's review and any fundamental change in policy and practice, the learning secured through that litigation is likely to remain vital to the rights to British citizenship and best interests of children now and in future.
12. Appended to this note is the following redacted material:
 - a. Consent Order in Ojeh (CO/4869/2020) sealed on 26 April 2021;
 - b. Statement of Reasons accompanying the Consent Order and briefly summarising the facts and issues;

- c. Witness statement of Jane Whitehead, Policy Manager, Nationality Policy Team dated 20 April 2021; and
- d. Claimant's letter of 23 April 2021 to Government Legal Department concerning settlement of his claim.

This note has been prepared by the Claimant's legal team: Solange Valdez-Symonds, solicitor; Adrian Berry, senior counsel (Garden Court); and Admas Habteslasie, junior counsel (Landmark Chambers). We are grateful to Steve Valdez-Symonds for his legal research and contribution to this note.

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