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Upper Tribunal

(Immigration and Asylum Chamber)

R (on the application of DS) v Birmingham City Council (AAJR) [2012] UKUT 00175 (IAC)

In the Matter of an Application for Judicial Review

Heard at Field House

Determination Promulgated

On 27 March 2012 and 18 May 2012

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Before

UPPER TRIBUNAL JUDGE LATTER

Between

The Queen on the application of

DS

Claimant

and

BIRMINGHAM CITY COUNCIL

Defendant

Representation :

For the Claimant: No appearance

For the Defendant: Mr Harrop-Griffiths, instructed by London Borough of Birmingham

(on 27 March 2012)

DETERMINATION AND REASONS

1. The claimant is a national of Afghanistan who arrived in the United Kingdom on 19 November 2008 and claimed asylum shortly after arrival. He was referred at that stage to the London Borough of Croydon for his age to be assessed as the Secretary of State did not believe his claim that he was born on 1 January 1993. In an assessment dated 15 December 2008, later found not to be Merton complaint, it was concluded that the claimant was over the age of 18.

2. Subsequently, the claimant's age was re-assessed by the defendant and his date of birth was estimated to be 1 January 1990. He applied for permission to challenge that finding in judicial review proceedings.

3. Permission was granted on 23 April 2010 and on 20 May 2010 directions were made for a fact-finding hearing. Various orders were made in the High Court and the application was transferred to the Upper Tribunal on 7 June 2011. The claimant is no longer represented by his previous representatives. Inquiries have been made both with the defendant and with the Children's Advisor at the Refugee Council but neither have been able to make contact with him. Following the hearing on 27 March 2012 it came to light that the notice of hearing had not been sent to the claimant as his whereabouts were unknown. The notice of hearing for 18 May 2012 has been properly served at the claimant's last known address. He has not attended this hearing and there has been no response from him.

4. In summary, the claimant is no longer represented and there has been no contact between him and either the defendant or the Refugee Council. Attempts to locate him have failed. He has not notified the Tribunal of any change of address. Accordingly, I am satisfied that he is no longer interested in pursuing this application. His challenge to the defendant's assessment of his date of birth as 1 January 1990 has not been pursued and I accept this assessment as his most likely date of birth. I dismiss his application for judicial review.

Decision

1. This application for judicial review is dismissed
2. The claimant is to pay the defendant's costs on the standard basis to be subject to a detailed assessment if not agreed, not to be enforced without further permission of the Tribunal
3. There is to be a detailed assessment of the claimant's publicly funded costs.

Signed

Upper Tribunal Judge Lattier

Immigration and Asylum Chamber