



Neutral Citation Number: [2022] EWHC 509 (Admin)

Case No: CO/404/2022

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
ADMINISTRATIVE COURT
SITTING IN LEEDS

1 Oxford Row,
Leeds LS1 3BG

9th March 2022

Before:
MR JUSTICE FORDHAM

Between:
**THE QUEEN (on the application of SIMON
SMART)**
- and -
SECRETARY OF STATE FOR JUSTICE

Claimant

Defendant

Daniella Waddoup (instructed by ITN Solicitors) for the **Claimant**

Determination as to Venue

I direct that no official shorthand note shall be taken of this Judgment and that copies of this version as handed down may be treated as authentic.

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THE HON. MR JUSTICE FORDHAM

MR JUSTICE FORDHAM:

1. This is a judicial determination on the papers, but where it is, in my judgment, appropriate to give reasons by way of a short judgment. This is a claim for judicial review in which a minded to transfer order (“MTTO”) was made on 8 February 2021. The Claimant had filed the claim in London and had answered “yes” to the question in Form N461: “Have you issued this claim in the region with which you have the closest connection?” The MTTO gave reasons for a transfer to Leeds and gave the parties 7 days to file representations objecting to that course. The Defendant does not object to the transfer to Leeds. The judicial review claim impugns the decision on 2 November 2021 by the Defendant’s Category A Team (“the Team”) to retain the Claimant as a Category A prisoner. The ground for judicial review is that, on two alternative bases, the Team ought as a matter of public law obligation to have convened an oral hearing. The Claimant is detained as HMP Full Sutton in York (YO4). He has been at HMP Full Sutton since December 2017. The impugned decision was preceded by the Local Advisory Panel having been convened at HMP Full Sutton on 16 September 2021. Any oral hearing would have been held at HMP Full Sutton.
2. The Claimant’s representations objecting to transfer submits that London is the most appropriate location for administering and determining this case, essentially for these reasons. (1) The Claimant had no prior connection with the North-East of England, is liable to be transferred to another high security establishment within the prison estate at any time, and does not therefore have any “fixed or settled” location. (2) The geographical location of the prison has no bearing on the determination of his claim and any attendance at a hearing of the claim on his part would be likely to be secured by video link. (3) The Defendant and the Team are based in London, as are the Claimant’s solicitors and his Counsel’s Chambers (although she is “based” in the “North-West of England”), and travel to Leeds rather than London would involve time and publicly-funded expense. (4) A previous judicial review claim similar in nature was determined in London: see [2021] EWHC 1898 (Admin).
3. In my judgment, in all the circumstances, this claim does have a “specific connection” to the North-East region for which Leeds is the regional Administrative Court. The applicable principle is that it should “if at all possible” be administered and determined in that region. It is “possible” to administer and determine the claim in that region. The claim has its “closest connection” to the Leeds region. It has no ‘closer connection’ to the London region. Although the previous claim was dealt with in London, nobody has pointed to any reasoned Venue Determination, and venue must be considered having regard to the relevant circumstances and applying the relevant criteria. Although his ‘residence’ is imposed through imprisonment and, although it would be subject to change, nevertheless the North-East is the region of the Administrative Court in which he “resides”. That is where he has been – and is – held as a Category A prisoner, and has not been downgraded, which is the substance of the impugned decision. The oral hearing which it is said should as a matter of public law obligation to have taken place would have been at that same prison. The fact that he is attendance at any substantive judicial review hearing would be by way of video link is a neutral factor. The ‘claim’ does not have its ‘closest connection’ with London, notwithstanding the location of the Claimant’s solicitors, the Defendant (and the Team), and the Claimant Counsel’s Chambers (though not her residence). I have taken into account the ease and cost of travel to a hearing for those who would be participating in any in-person hearing. That

and the public funding on both sides is not sufficient to drive a conclusion that the public interest calls for the proceedings being heard in London. The claim can promptly and properly be administered and determined in Leeds. As a general point – and having regard to the volume of claims issued, the capacity, resources and workload at the various Administrative Courts, it is in my judgment desirable to administer and determine this claim in the region which it has its closest connection. It is relevant that the Defendant has raised no objection to this transfer. I order the claim be transferred to Leeds.

7.3.22