



Fijian-born British soldiers lose latest legal fight to stay in UK

High court rejects call for judicial review of eight veterans' immigration case

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Eight Fijian-born soldiers who served with the British army in Iraq and Afghanistan have been rebuffed in their initial attempt to seek a judicial review of the handling of their immigration claims.

A high court judge said the Commonwealth veterans were “out of time” - but the veterans are able to demand a fuller oral hearing in December, where they will make a final attempt to win the right to remain in the UK.

The British army actively recruits from Fiji and those who serve more than four years have the right to remain in the UK if they can afford the application fees. But the eight say that because of systemic administrative errors they were not properly informed of their rights when discharged.

Esita Tuimanu, from Commonwealth Neglected Veterans, said the eight were victims of “institutional discrimination” from the Home Office and Ministry of Defence and they would “keep on fighting till the end”.

The veterans and their lawyers say they intend to run a public campaign in the run-up to the final high court hearing, in the hope that ministers will allow them to remain in the UK without paying the usual application fees of £2,389 per person.

One of those joining the campaign is Tuimanu's 10-year-old daughter, Gracie-Ann Kelly, whose father, Etuate Bakaniceva, served in Iraq and Afghanistan. She has started making badges in support of the veterans and posting videos about her efforts on YouTube.

"They must not be forgotten for their service to the Queen," she said.

She was born a British citizen because of her father's service but has been unable to see him for the past six years, partly because of the immigration complications that followed after he had served in the army.

Bakaniceva was prematurely discharged in 2010, a year after he had been injured in an RPG attack in Musa Qala, Afghanistan, that killed another British soldier, Cpl Danny Nield.

Bakaniceva could not afford the cost of applying for citizenship for both him and his wife after he was discharged, and was suffering from tinnitus and PTSD. Struggling with his condition, he eventually returned to Fiji to get help.



Gracie-Ann Kelly, 10, is making badges in support of the veterans, who include her father, Etuate Bakaniceva

But Tuimanu said that because he had been away for more than two years he had to reapply to reenter the UK and see Gracie-Ann or obtain treatment. His medical and citizenship problems "tore his family apart", she said, and his young daughter does not want others in a similar position to suffer in the same way.

"Gracie-Ann is fighting for justice for these veterans because she wants to see the Commonwealth eight veterans get to have the peace and luxury to family and private life. This was a privilege she never had the opportunity to enjoy," Tuimanu added.

Most of the eight claimants have not been named, but one, Taitusi Ratucaucau, is facing a £50,000 NHS bill after a brain tumour, with the hospital waiting to see if his immigration status is being resolved before levying any bill.

Costs of £12,000 were awarded against the veterans, who have been crowdfunding their campaign, by Mr Justice Lane following the initial ruling. As he ruled against the claimants, the judge accused them of "an inappropriate attempt to mount a legal challenge in respect of what is in reality a campaign to change the law".

A government spokesperson said: "The Home Office and Ministry of Defence work closely with our foreign and Commonwealth recruits to make sure they are aware of how they and their families can attain settlement in the UK, and the costs involved."

"Whilst legal proceedings are ongoing, we cannot comment on these cases."

The lawyers for the claimants, led by Anthony Metzer QC from Goldsmith Chambers and Vinita Templeton from Duncan Lewis Solicitors said they would "continue to pursue legal redress vigorously for what we consider to be a just and principled cause". The final oral hearing is scheduled for 1 December.