



Windrush scandal

Windrush: high court rules claimants' human rights breached by Home Office

Minister could have applied discretion when considering citizenship applications, says judge

Diane Taylor and Amelia Gentleman

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Members of the Windrush generation had their human rights breached when the Home Office refused to grant them citizenship, the high court has ruled.

Eunice Tumi and [Vernon Vanriel](#) were refused citizenship after being told by the home secretary they did not fulfil the residence requirement of having been in the UK on the date five years before they made the application for citizenship, the court heard.

The only reason they could not fulfil this requirement was because the home secretary had unlawfully prevented them from coming back to the UK earlier, the court heard.

They were only granted indefinite leave to remain after the the Windrush scandal, when it emerged that those who arrived in the UK from Caribbean countries from 1948 onwards, as well as their children, were [wrongly targeted](#) by the government's "hostile environment" policies designed to deter illegal immigrants.

Both were subsequently denied British citizenship when they applied for it under the Windrush scheme.

But on Thursday, Mr Justice Bourne ruled that the home secretary had discretion about applying the five-year rule when considering citizenship applications. The ruling is likely to have a significant impact for other members of the Windrush generation in similar situations.

Both claimants were initially locked out of returning to the UK after periods spent abroad - Vanriel spent time in Jamaica and Tumi, who is of Ghanaian heritage, spent time in Ghana and the US.

Lawyers for the two successful claimants said the case showed the Home Office continued to act in breach of the human rights of Windrush victims by refusing to recognise them as British, even when the sole reason they were not British was the historical injustice committed by the department over the past decades.

According to government [data](#), 11,000 people have been refused citizenship following applications under the Windrush scheme. While not all will benefit from Thursday's ruling many will now be able to reapply.

The judge said those members of the Windrush generation who were locked out of British citizenship under the five-year rule are "perhaps in significant numbers".

Jeremy Bloom, of Duncan Lewis solicitors, who brought the case for Vanriel and Tumi, said: "This judgment is an absolute vindication for our clients who have shown amazing courage and determination to challenge the Home Office's unlawful decisions.

"Our clients were locked out of the UK for years by the Home Office through no fault of their own, then told that they did not qualify for British citizenship because they did not meet the residency requirements." He added that the case showed the lessons of the [Windrush scandal](#) had not been learned.

An order has been made by the high court that states that the Home Office acted unlawfully in refusing the citizenship applications of Tumi and Vanriel and that they should be redetermined within 42 days. Central London county court will look at the issue of whether both are entitled to damages as a result of the breach of their human rights.

Vanriel, 66, a former boxer who had lived in London for 43 years having arrived as a six-year-old in 1962, was prevented from returning to the UK after a trip to Jamaica in 2005. He spent 13 years there destitute before the Windrush scandal broke and he was allowed to return to his family in Britain.

His application for citizenship was refused in February this year on the grounds that he had been out of the country five years before his application was submitted - as a direct result of the Home Office's errors. He welcomed the ruling. "Justice has been done," he said, adding that the denial of citizenship had been a painful extension of his ordeal.

"They said they wanted to right the wrongs done to the Windrush generation, but refusing to give me citizenship when I've lived here since I was six was a slap in the face. They weren't righting the wrongs, they were making the wrongs more wrong."

