



**Upper Tribunal
(Immigration and Asylum Chamber)**

**Appeal Number: EA/01429/2016
EA/01433/2016
EA/01436/2016**

THE IMMIGRATION ACTS

**Heard at Field House
On 27th October 2017**

**Decision & Reasons Promulgated
On 30th October 2017**

Before

UPPER TRIBUNAL JUDGE COKER

Between

**ABIMBOLA OLAMILEKAN IDOWU
OLAMIDE OLUWATIMILEHIN IDOWU
OLUWATOMISIN MOTUNRAYO**

Appellants

And

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: No appearance and no legal representative
For the Respondent: Mr P Nath, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. The appellants, who were born respectively in 1999, 1994, and 1996 appealed a decision by the respondent to revoke their family permit and refuse them admission to the UK, such decisions being taken on 23rd January 2016. Their appeal against that decision was dismissed by First-tier Tribunal Judge Sangha for reasons set out in a determination promulgated on 22nd February 2017 after a hearing on 27th January 2017 at which the appellant had not appeared.

2. The appellants did not appear before me and nor did their legal representative; no reasons for their non-appearance was given to the Tribunal. Notice of the hearing was sent to the appellants' last notified address and to their legal representatives. None have been returned as undelivered. There were no reasons not to proceed with the hearing in their absence.
3. Permission to appeal the decision of the First-tier Tribunal judge had been granted on the grounds that it was arguable the First-tier Tribunal judge had erred in failing to initiate an application to the respondent to obtain and disclose evidence as to whether the appellants' father's wife's was exercising Treaty Rights; failed to take into account that the marriage between the appellants' father and his wife had not been dissolved and had failed to take the best interest of the youngest child into account.
4. The First-tier Tribunal judge set out in clear and unambiguous terms the lack of evidence as to the whereabouts of the appellants' stepmother or her income, if any. He set out the inconsistent evidence including contradictory information given to the immigration officer as to their proposed trip to the UK, as to whether the stepmother was at the airport, or at work and whether the marriage was subsisting. He set out the contradictory information given to the immigration officer as to who exactly was meeting the three appellants. The immigration officer extended temporary admission to the three appellants to enable their step mother to attend to provide evidence of her presence in the UK; she never attended. No explanation was given by the appellants for either the inconsistencies, contradictions or lack of attendance.
5. No request was made for the respondent to initiate disclosure of any documents. No evidence was given either to the Immigration Officer or the First-tier Tribunal as to the presence of the stepmother in the UK save for a phone call from a woman purporting to be her. There were not even the beginnings of evidence that she was exercising Treaty rights.
6. Although the respondent has not revoked the father's residence permit that is irrelevant to the issue at hand – there was simply no evidence that the appellants were, on entry, dependent upon an EEA national exercising Treaty rights.
7. In so far as Article 8 is concerned, the first appellant was 17 on the date of the respondent's decision and four days short of being an adult on the date of the hearing. They made no application that the decision was a breach of Article 8 and did not appeal on Article 8 grounds. The First-tier Tribunal judge nevertheless considered such evidence as there was and reached a decision that was plainly open to him given the almost total lack of any significant evidence that there was any dependency between the appellants and their father and stepmother and no significant evidence as to their private life as established following their arrival in the UK. Although neither the judge nor the respondent considered s55 there was no evidence

whatsoever that the best interests of the children were served by them being in the UK. They had been in Nigeria for years and separated from their father. In the absence of evidence that even begins to raise an issue of the best interests of a child, where such evidence as there is, is a mix of contradiction, inconsistency and error, and where there is no point pleaded that there has been any lack of respect for family or private life any such error is immaterial.

8. There is no error of law in the decision of the First-tier Tribunal judge. He reached findings that were plainly and uncontrovertibly open to him.

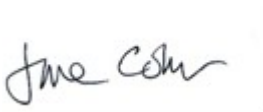
Conclusions:

The making of the decision of the First-tier Tribunal did not involve the making of an error on a point of law.

I do not set aside the decision.

The decision of the First-tier Tribunal to dismiss the appeals stands.

Date 27th October 2017



Upper Tribunal Judge Coker