



IAC-FH-CK-V1

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

Appeal Numbers: IA/43861/2014
IA/43865/2014
IA/43866/2014

THE IMMIGRATION ACTS

**Heard at Bradford
On 14th January 2016**

**Decision & Reasons Promulgated
On 28th January 2016**

Before

DEPUTY UPPER TRIBUNAL JUDGE RENTON

Between

**GABRIEL BOAKYE-YIADOM
S B-Y
G B-Y
(ANONYMITY DIRECTION NOT MADE)**

Appellants

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellants: Unrepresented

For the Respondent: Mr M Diwncyz, Home Office Presenting Officer

DECISION AND REASONS

Introduction

1. The Appellants are a family who are all citizens of Ghana. They comprise the first Appellant, who was born on 13th August 1964, and his two children born on 29th June 1999 and 21st November 2006 respectively. The first Appellant first arrived in the UK on 12th September 2007 when he was

given leave to enter as a student initially until 15th January 2009 and thereafter until 31st July 2014. The remaining Appellants arrived in the UK on 23rd April 2010 when they were given leave to enter as the dependants of the first Appellant initially until 30th November 2011 and thereafter until 31st July 2014. They all applied for leave to remain on human rights grounds on 29th July 2014. Those applications were refused for the reasons given in Notices of Decision dated 9th October 2014.

2. The Appellants appealed, and their appeals were heard by Judge of the First-tier Tribunal Foudy (the Judge) sitting at Manchester on 25th May 2015. She decided to dismiss the appeals for the reasons given in her Decision also dated 25th May 2015. The Appellants sought leave to appeal that decision, and on 4th September 2015 such permission was granted.

Error of Law

3. I must first decide if the decision of the Judge contained an error on a point of law so that it should be set aside.
4. The case for the Appellants was that the refusal of their applications amounted to a disproportionate breach of their right to a family life. This was because the first Appellant suffered from sciatica and he wanted his children to have the benefit of a good education in the UK. The youngest Appellant could no longer speak a Ghanaian language, and needed dental treatment. The minor Appellants were settled in schools in the UK where they had friends. All the Appellants would be at risk of Ebola infection if returned to Ghana.
5. The Judge dismissed the appeals having treated as a primary consideration the best interests of the minor Appellants. However, she found that the public interest outweighed any circumstances relating to the Appellants. Ghana had a functioning education system and there was no evidence that the minor Appellants would be denied an education there. Likewise there was no evidence that in Ghana the Appellants could not obtain treatment for sciatica and the necessary dental treatment. Although the minor Appellants had settled into schools in the UK, they had not left Ghana for very long and would be able to readjust to life there as they had when removing to the UK.
6. The lengthy grounds of application of the Appellants amount to little more than a disagreement with the decision of the Judge which was described as simplistic, unfair, and worrying. It was argued that the reasoning of the Judge was fundamentally flawed.
7. At the hearing, the first Appellant appeared in person and indicated to me that he was happy for the hearing to proceed without the Appellants being represented. He argued that the Judge had erred in law. He referred to the grounds of application which to a large extent he repeated. He submitted that the Judge's decision was ambiguous, controversial, and difficult to understand. The Judge had ignored the evidence, particularly that relating to the education of the minor Appellants. The Judge had been

mistaken as to the best interests of the children. The children now had no friends in Ghana.

8. In response, Mr Diwncyz submitted that there had been no error of law by the Judge. The hearing had taken place in the absence of the parties and the Judge had analysed all the documentary evidence before her. The Judge had come to a conclusion open to her.
9. The Judge made an unfortunate error when referring to allowing the appeal when deciding not to make a fee award. However, that is irrelevant to the issues before me. I find no error of law in the decision of the Judge so that it should be set aside. It is clear from reading the Decision that the Judge took into account all the relevant evidence, such as it was, and came to a conclusion which was open to her. The Judge gave sufficient reasons for her decision. The Appellants had been admitted to the UK on a temporary basis and particularly in the case of the minor Appellants, had not spent a lengthy period away from Ghana. The Judge's decision that the Appellants could return to that country and resettle there without any great difficulty cannot be described as perverse. The medical problems of the Appellants amount to very little and there was no evidence that they could not obtain the approach treatment in Ghana. All that being the case, the Judge was entitled to conclude that the public interest represented by the Immigration Rules carried the most weight

Notice of Decision

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 that decision. The appeal to the Upper Tribunal is dismissed.

Anonymity

The First-tier Tribunal did not make an order for anonymity. I was not asked to do so, and in any event I find no reason to do so.

Signed

Date

Deputy Upper Tribunal Judge Renton