



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

**Appeal number: HU/05316/2016
Notice Sent: 11th December 2017**

THE IMMIGRATION ACTS

Before

UPPER TRIBUNAL JUDGE REEDS

Between

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

Raphael Jorge Atanda

Respondent

NOTICE OF DECISION

1. The appellant has an appeal outstanding before the Upper Tribunal listed on the 12th December 2017. By email dated 8th December the Secretary of State has stated that she no longer pursues the grounds of appeal and wishes to withdraw her case.
2. Rule 17 of the Tribunal Procedure (Upper Tribunal) Rules 2008 provides that a party may give notice of the withdrawal of its case or any part of it, subject to the consent of the Upper Tribunal. There is no provision for a party to withdraw the appeal before the Upper Tribunal. Therefore, the letter from the Secretary of State can serve only as a notice of withdrawal of her case before the Upper Tribunal, to which the Upper Tribunal now consents. There is no challenge to the finding of fact made by the FTT that the relationships are genuine and subsisting and that there is a permanent transfer of the twins to their care and thus there are three qualifying children.
3. Consequently there is no challenge to the case advanced by the respondent and the Secretary of State's appeal to the Upper Tribunal is dismissed.
4. Accordingly, the decision of the First-tier Tribunal shall stand.

Signed

SM Reeds

Upper Tribunal Judge Reeds
Dated 11/12/2017