



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

Appeal Numbers: HU/07773/2018  
HU/07775/2018  
HU/07778/2018  
HU/07779/2018

**THE IMMIGRATION ACTS**

**Heard at Bradford**

**On 19 November 2018**

**Decision & Reasons  
Promulgated  
On 2 January 2019**

**Before**

**UPPER TRIBUNAL JUDGE LANE**

**Between**

**BA  
AA  
DA  
DJA**

**(ANONYMITY DIRECTION MADE)**

Appellants

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellants: Mr Atuelbe

For the Respondent: Mr Tan

**DECISION AND REASONS**

1. The appellants are citizens of Nigeria. They are a wife, husband and two of three children. By decisions dated 15 March 2018 the appellants were refused further leave to remain in the United Kingdom on the basis of their

family life. They appealed on human rights grounds (Article 8 ECHR) to the First-tier Tribunal (Judge Hillis) which, in a decision promulgated on 11 July 2018, dismissed the appeal. The appellants now appeal, with permission, to the Upper Tribunal.

2. I find that the decision of the First-tier Tribunal should be set aside. Both parties agree that the judge failed to make a clear finding with regards to the best interests of the minor appellants who are “qualifying children” for the purposes of the 2002 Act (as amended); the two minor appellants have been resident in the United Kingdom for more than 7 years. Further, Mr Tan, who appeared for the Secretary of State, acknowledged that the operation of the respondent’s own relevant policy and the absence of “strong reasons” to refuse further leave to remain to the minor appellants rendered continued opposition to the appeal against the immigration decision pointless.
3. The remaining ground (concerning the judge’s alleged failure to either consider or grant an adjournment of the First-tier Tribunal proceedings) was not pursued before the Upper Tribunal. There appears to be some dispute as to whether an application for an adjournment was actually made to the judge. I make no finding on that issue as there is no need for me to do so.

### **Notice of Decision**

4. The decision of the First-tier Tribunal which was promulgated on 11 July 2018 is set aside. None of the findings of fact shall stand. I have re-made the decision. The appellants’ appeals against the decision of the Secretary of State dated 15 March 2018 is allowed on human rights grounds (Article 8 ECHR).
5. An anonymity direction is made.

### **Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008**

Unless and until a Tribunal or court directs otherwise, the appellants are granted anonymity. No report of these proceedings shall directly or indirectly identify them or any member of their family. This direction applies both to the appellants and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.

Signed

Date 30 November 2018

Upper Tribunal Judge Lane