



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

Appeal Numbers: OA/21123/2013  
OA/21125/2013 & OA/21128/2013

**THE IMMIGRATION ACTS**

**Heard at Stoke on Trent**

**On 31 October 2014**

**Determination**

**Promulgated**

**On 3 November 2014**

**Before**

**Deputy Upper Tribunal Judge Pickup  
Between**

**Secretary of State for the Home Department  
[No anonymity direction made]**

Appellant

**and**

**Fatima Usman Gulumbe  
Naseeb Aminu  
Samir Aminu**

Claimants

**Representation:**

For the claimants: Not represented

For the respondent: Mr A McVeety, Senior Home Office Presenting Officer

**DETERMINATION AND REASONS**

1. The appellants, Fatima Usman Gulumbe, date of birth 25.7.83, and her children, Naseeb Aminu, date of birth 25.10.09, and Samir Aminu, date of birth 11.12.07, are citizens of Nigeria.
2. This is the appeal of the Secretary of State against the determination of

First-tier Tribunal Judge Flower promulgated 23.6.14, allowing the appeals of the claimants against the decisions of the Secretary of State to refuse their applications for entry clearance to the United Kingdom as the partner and children of the sponsor Mr Aminu Argungu Umar. The Judge dealt with the appeal on the papers on 6.6.14.

3. First-tier Tribunal Judge Molloy granted permission to appeal on 7.7.14.
4. Thus the matter came before me on 31.10.14 as an appeal in the Upper Tribunal.

### **Error of Law**

5. In the first instance I have to determine whether or not there was an error of law in the making of the decision of the First-tier Tribunal such that the determination of Judge Flower should be set aside.
6. There was no jurisdiction for the judge to hear the appeals of the claimants. That is because by the date of the appeal hearing, the Secretary of State had withdrawn the decisions and issued entry clearance on 17.2.14.
7. It follows that there was no extant immigration decision against the claimants and thus there could be no appeal against a withdrawn decision.

### **Decision:**

8. The making of the decision of the First-tier Tribunal did involve the making of an error on a point of law such that the decision should be set aside.

I set aside the decision.

I remake the decision by directing that the appeal of each claimant be treated as withdrawn.



Signed:

Date: 31 October 2014

Deputy Upper Tribunal Judge Pickup

### **Anonymity**

I have considered whether any parties require the protection of any anonymity direction. No submissions were made on the issue. The First-tier Tribunal did not make an order pursuant to rule 45(4)(i) of the Asylum and Immigration Tribunal (Procedure) Rules 2005.

Given the circumstances, I make no anonymity order.

**Fee Award**

**Note: this is not part of the determination.**

In the light of my decision, I have considered whether to make a fee award (rule 23A (costs) of the Asylum and Immigration Tribunal (Procedure) Rules 2005 and section 12(4)(a) of the Tribunals, Courts and Enforcement Act 2007).

I have had regard to the Joint Presidential Guidance Note: Fee Awards in Immigration Appeals (December 2011).

I make no fee award.

Reasons: There was no valid appeal in this case.



Signed:

Date: 31 October 2014

Deputy Upper Tribunal Judge Pickup