



**Upper Tribunal
(Immigration and Asylum Chamber)
IA/02139/2015**

Appeal Number:

/02141/2015

IA

/02143/2015

IA

/02145/2015

IA

THE IMMIGRATION ACTS

Heard at Field House

**Decision &
Promulgated
On 16 June 2017**

Reasons

On 13 June 2017

Before

DEPUTY UPPER TRIBUNAL JUDGE APLEYARD

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

And

**MRS S C P - FIRST RESPONDENT
MR D A M- SECOND RESPONDENT
MASTER J S A C - THIRD RESPONDENT
MISS A C A- FOURTH RESPONDENT
(ANONYMITY DIRECTION MADE)**

Respondent

Representation:

For the Appellant: Mr D Clarke, Home Office Presenting Officer
For the Respondents: Mr E Fripp, Counsel.

DECISION AND REASONS

1. The Appellant in this case is the Secretary of State for the Home Department. However, for the sake of clarity, I shall use the titles by which the parties were known before the First-tier Tribunal with the Secretary of State referred to as “the Respondent” and Mrs SCP – first Appellant, Mr DAM – second Appellant, Master JS AC – third Appellant and Miss CAA – fourth Appellant as “the first, second, third and fourth Appellant” respectively.
2. The Appellants are all citizens of Bolivia. The first and second Appellants are wife and husband and the third and fourth Appellants are their two minor children. They appealed a decision of the Respondent dated 16 December 2014 refusing their applications for permission to remain in the United Kingdom on human rights grounds. Their appeal was heard by Judge of the First-tier Tribunal Nightingale who in a decision promulgated on 3 October 2016 allowed the appeals.
3. The Respondent sought permission to appeal. On 2 May 2017 Judge of the First-tier Tribunal Mark Davies granted that application. His reasons for so doing were:-
 - “1. The Respondent seeks permission to appeal against a decision of the First-tier Tribunal (Judge) promulgated on the 3rd October 2016 who allowed the Appellants appeal against the decision to refuse them leave to remain on Article 8 grounds.
 2. The decision is wholly inadequate.
 3. The Judge does not appear to have considered the burden of proof upon the Appellants.
 4. The Judge has not identified what exceptional circumstances exist for consideration of an Article 8 claim on a free standing basis.
 5. The Judge, whilst making reference to S117B has not considered all the appropriate subsections.
 6. The grounds and the decision do disclose an arguable error of law.”
4. Thus the appeal came before me today.
5. At the outset Mr Fripp handed up a copy of the decision in **MA (Pakistan) [2016] EWCA Civ 705** along with his response, dated 1 June 2017, to the notice of appeal. Mr Fripp was content that I annex that response to this decision which I am happy to do. It is duly marked Annexed 1.
6. Whilst relying on the grounds of appeal Mr Clarke acknowledged that the third Appellant is now a British citizen and that even this appeal were to be remade the Respondent could not succeed. The Respondent’s position

being that in this appeal there is a family unit which it has always been acknowledged should remain intact.

7. For his part Mr Fripp, for all the reasons outlined in his annexed Response, urged me to accept that the Judge's decision was "impeccable" and that there is within it no error of law.
8. I do not intend to repeat here what is said by Mr Fripp within his annexed Response. For all the reasons therein contained I share his analysis that this decision of Judge Nightingale contains no material error of law whatsoever.

Conclusion

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 it aside. Judge Nightingale's decision stands.

An anonymity direction is made.

Signed

Date 15 June 2017

Deputy Upper Tribunal Judge Appleyard