



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

Appeal Number: EA/01981/2018

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 20<sup>th</sup> December 2018**

**Decision & Reasons  
Promulgated  
On 25<sup>th</sup> January 2019**

**Before**

**UPPER TRIBUNAL JUDGE JACKSON**

**Between**

**MISS PRISCILLA ADAMOAH  
(ANONYMITY DIRECTION NOT MADE)**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: Ms N Hyams, Counsel instructed by Adam Bernard  
Solicitors

For the Respondent: Mr E Tufan, Home Office Presenting Officer

**DECISION AND REASONS**

1. The appellant appeals against the decision of First-tier Tribunal Judge Rodger, promulgated on 20 September 2018, dismissing her appeal against the respondent's refusal her application for an EEA family permit, essentially on the basis that no complete DNA report had been filed with the First-tier Tribunal and therefore the Tribunal was not satisfied that the relationship was as claimed between the appellant and the sponsor.

2. The respondent had initially refused an EEA family permit on 25 January 2018 for the sole reason that the relationship between the appellant and her stepfather as the sponsor was not accepted because a full DNA report had not been provided. The DNA report referred to was for the purposes of proving the relationship between the appellant and her mother, the marriage between her mother and stepfather having been accepted.
3. The appeal was determined on the papers by the First-tier Tribunal on 20 September 2018, but it appears from the decision that no bundle was available from the appellant at the time the decision was made. However, on the file it is clear that the bundle of paperwork had been submitted on behalf of the appellant on 14 September 2018 and that did include a full copy of the DNA report from Anglia DNA.
4. Those papers, for whatever reason, obviously did not reach the Judge and that failure is a procedural irregularity which amounts to an error of law in this case. The papers were submitted on time, prior to determination of the appeal and were clearly material to the outcome of the appeal. For these reasons I set aside the decision of the First-tier Tribunal.
5. The sole issue in the appeal was as to the genuineness of the relationship between the appellant and her stepfather. The sole reason for refusal in the respondent's initial decision was that the relationship was not accepted because the full DNA report had not been provided. On behalf of the Home Office, Mr Tufan has confirmed that there is nothing obviously missing from the copy of the DNA report that was provided to the First-tier Tribunal and is also available before me. On the balance of probabilities there is no reason to doubt a genuine relationship as claimed and therefore I also allow the appellant's appeal on the basis that the family relationship has been accepted. No other reasons for refusal have been given by the respondent initially or at the oral hearing.
6. In summary, the First-tier Tribunal erred in law in failing to take into account documents which had been submitted by the appellant prior to the determination of the appeal, which included the full DNA report on which there can be no doubt that the relationship is as claimed.
7. The decision of the First-tier Tribunal is therefore set aside for error of law and the appeal remade to allow it in the appellant's favour.

### **Notice of Decision**

The making of the decision of the First-tier Tribunal did involve the making of a material error of law. As such it is necessary to set aside the decision.

I set aside the decision of the First-tier Tribunal and remake the decision as follows:

The appeal is allowed under the Immigration (European Economic Area) Regulations 2016.

No anonymity direction is made.

Signed  
2019

A handwritten signature in black ink, appearing to read 'E. Jackson', written in a cursive style.

Date            14<sup>th</sup>    January

Upper Tribunal Judge Jackson