



**IN THE UPPER TRIBUNAL**  
**IMMIGRATION AND ASYLUM CHAMBER**

**Case Nos: UI-2022-000181**  
**UI-2022-000191**

**First-tier Tribunal Nos:**  
**IA/08727/2021**  
**IA/08706/2021**

**THE IMMIGRATION ACTS**

**Decision & Reasons Issued:**  
**On the 02 February 2023**

**Before**

**UPPER TRIBUNAL JUDGE PERKINS**

**Between**

**DANIEL APPIAH APETORGBOR**  
**EMMANUEL APPIAH APETORGBOR**  
**(NO ANONYMITY ORDER MADE)**

Appellants

**and**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr S Karim, Counsel instructed by Mascot Solicitors  
For the Respondent: Ms A Everett, Senior Home Office Presenting Officer

**Heard at Field House on 20 June 2022**

**DECISION AND REASONS**

1. The appellants are citizens of Ghana born in 1991 and 1993 respectively. Their mother is an EEA national exercising treaty rights in the United Kingdom at all material times. It is an appeal against the decision under the EEA Regulations 2016 refusing them residence cards as the dependents of EEA nationals exercising treaty rights.
2. Both appellants supported the appeal with affidavits sworn on 12 May 2021.

3. The affidavit of Emmanuel showed that he was solely dependent on their mother relying on remittances and money from selling used goods imported by the sponsor since she left for Italy in 2005. It was Emmanuel's case that since 2016 he had been on a part-time accountancy course but he struggled to complete it because of lack of funds and being unemployed. His education had been paid for by his mother.
4. Daniel's affidavit is less detailed, but refers to repaying a loan but it does not say how much was borrowed or how the repayments were made. He refers to having a "meagre salary" but gives no indication of the hours worked or what wages he actually received.
5. The sponsor had said in evidence that one of her sons had a job and said she did not know much about it. The judge commented at paragraph 11 of the Decision and Reasons:

"If he is working the suggestion that he depends solely on remittances and from the money from goods sold is difficult to reconcile."
6. The judge noticed that there was a schedule of income and expenditure but it covered September 2020 to February 2021 which was described as

"not an extensive period having regard to the history of the Appellants' case."
7. The judge was concerned about evidence that he might reasonably be expected to have but which had not been provided. He found nothing to show deposits or withdrawals in the joint bank account between the sponsor and second appellant.
8. At paragraph 14 the judge said:

"As it stands the evidence presented is incomplete and does not give a reliable picture of the Appellants' circumstances. The Sponsor's claim about not being involved in the finances given her lack of education is not consistent with her arranging for the shipment of goods back to Ghana for sale."
9. The first point taken in the grounds, settled by Mr Karim, is that the judge did not engage with or even seem to appreciate that it was the appellants' case that they lived in their mother's house and she was responsible for its maintenance. It was acknowledged in the Rule 24 notice signed by Ms Isherwood a Senior Home Office Presenting Officer and in argument by Ms Everett before me this could have made a difference but it is not the whole story. I note in parenthesis that although Mr Karim is, of course, quite right, when he says that it was made plain on the application form that the appellants lived in the accommodation provided by their mother, the point does not seem to have featured in the skeleton argument used before the First-tier Tribunal (not drawn by Mr Karim) and I do wonder if the reason that not much was said about it in the Decision and Reasons is not very much was said about it to the judge.
10. However, the problem that will not go away from the appellant's point of view is that it was their case that one of them earned money, but no indication was given about how much was earned except the rather vague description "meagre"

and it was left to the judge to decide if a person in receipt of an income that he chose not disclose could really be said to be dependent on payments from the United Kingdom. Although only one appellant claimed to be in employment of kind, this gap in the evidence necessarily impacted on the other case. It was part of the overall story, which was not explained. The judge was entitled to take this point.

11. I found this case surprisingly difficult. I appreciate what Mr Karim says and there is some merit in the contention that the judge did not embrace in detail the evidence about how sums were transferred. None of that gets around the gap in the evidence that the appellants did not explain their income even though one of them claimed to have an income.
12. Looking at in the round, I find that the decision and reasons is adequate and no error of law has been established. It follows that I dismiss these appeals.

**Jonathan Perkins**

Judge of the Upper Tribunal  
Immigration and Asylum Chamber

**31 January 2023**