



**Upper Tribunal
(Immigration and Asylum Chamber)**
IA/22210/2014

Appeal Numbers:

IA/22216/2014
IA/22218/2014
IA/22221/2014
IA/22223/2014

THE IMMIGRATION ACTS

**Heard at Glasgow
On 18 December 2014**

**Determination issued
On 19 December 2014**

Before

**Mr C M G OCKELTON, VICE PRESIDENT
& UPPER TRIBUNAL JUDGE MACLEMAN**

Between

**M O ADEBAYO (first appellant) and G O, D O M, V O M, & F O M
Adebayo (second to fifth appellants)**

Appellants

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

For the Appellant: Mr A Knox, of Hamilton Burns & Co., Solicitors
For the Respondent: Mrs M O'Brien, Senior Home Office Presenting
Officer

**(1) NOTICE OF ABANDONMENT (re first appellant) and (2)
DETERMINATION AND REASONS (re second to fifth appellants)**

1. The appellants are father, mother and three children, all citizens of Nigeria. The first appellant came to the UK firstly as a student in 2004. He remained in that capacity and later as an off-shore worker. His family joined him in 2008. In 2012 his third application as an off-shore worker was refused. The respondent had realised that the category did not apply. He is employed by a company based in Aberdeen to work on vessels servicing offshore installations, but not on such installations, on a "28 days on, 28 days off" basis. The appellants all then sought to remain on the basis of family and private life. Their applications were refused (after various procedures) on 12 May 2014. First-tier Tribunal Judge Montgomery dismissed their appeals by determination promulgated on 4 August 2014. They appealed to the Upper Tribunal.
2. At the outset of the hearing Mr Knox (very properly) raised two points not previously observed. In course of his work the first appellant regularly leaves the geographical jurisdiction. His appeal is thus subject to statutory abandonment in terms of section 104 (4) of the 2002 Act. Secondly, the first appellant as a seaman may leave and re-enter the UK without entry clearance. Those provisions however are designed for seamen whose ships call on irregular occasions or for brief periods, not for someone whose onshore life may be based here.
3. The First-tier Tribunal determination does not distinguish between the categories of off-shore workers and seamen, but that oversight does not bear on the outcome now.
4. It may be that the first appellant by virtue of his employment can find some other avenue through the Rules, but that would have to begin with a further application to the respondent, and no such matter is presently before us.
5. We did not think that the grounds showed error of law in the outcome reached by the First-tier Tribunal on the case put before it for the second to fifth appellants. In any event, now that the above points have been observed, the whole basis of their case changes. Their applications to the respondent and their cases in the First-tier Tribunal were as dependants of the first appellant. Once separated from the first appellant's appeal, they are left seeking leave to remain as dependants where no relative is a UK national or resident and where no party has leave. They could not realistically gain anything from a fresh decision based on matters as they stand at the moment. Mr Knox (again very properly) recognised this, and did not seek to make any further substantive submissions in support of the grounds.

6. The appeal of the **first appellant** is recorded as **abandoned**. The appeals of the **second to fifth appellants** are **dismissed**, and the determination of the First-tier Tribunal in those respects **shall stand**.
7. No anonymity direction has been requested or made.

A handwritten signature in black ink, reading "Hugh Macleman". The signature is written in a cursive style with a large, stylized initial 'H'.

18 December 2014
Upper Tribunal Judge Macleman