



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

Appeal Numbers: OA/06069/2014  
OA/06071/2014  
OA/06074/2014

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 17 March 2015**

**Decision & Reasons Promulgated  
On 23 March 2015**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE DAVID TAYLOR**

**Between**

**BEAU ETIENNE NOUSSI  
WELCH NOUSSI KAMDEM  
VIERI TALTO NOUBISSI  
(ANONYMITY DIRECTION NOT MADE)**

Appellants

**and**

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

Respondent

**Representation:**

For the Appellants: Mr Z Nasim of Counsel

For the Respondent: Mr P Nath, Home Office Presenting Officer

**DECISION AND REASONS**

1. Although this is strictly an appeal by the Secretary of State I have, for the sake of consistency, continued the headings as in the First-tier Tribunal so that in this decision the original appellants continue to be called the appellants.

2. The Secretary of State has appealed, with permission, against the decision of First-tier Tribunal Judge Camp who allowed the appeals of the three appellants, all citizens of Cameroon, to the extent only that he found the original decisions to be not in accordance with the law and he remitted the applications to the respondent for lawful decisions.
3. The first appellant had applied for entry clearance to join his wife who is a British citizen resident and settled in the UK. The second appellant is his stepson, the son of his wife, who is now aged 10 and the third appellant is his wife's younger brother who is now aged 12. The Entry Clearance Officer had refused all three applications, each on different grounds but based on the relevant provisions of the Immigration Rules. The essential reason given by the First-tier Tribunal Judge for allowing the appeals and remitting them was essentially, as stated at [15] that "the best interests of the minor appellants have not been considered by the respondent" and he stated at [16] that "it is clear that the refusal of the first appellant's application impinges on the interests of the second and third appellants".
4. Permission to appeal was given on 29 January 2015 by First-tier Tribunal Judge Omotosho who quoted the first ground seeking permission to appeal and referred to the Upper Tribunal decision in **T (Section 55 BCIA 2009 - entry clearance) Jamaica [2011] UKUT 00483** which has held that Section 55 of the 2009 Act does not apply to children who are outside the United Kingdom.
5. In making his submissions, Mr Nath relied on the grounds and on the case of **T Jamaica**. He also relied on paragraph (iv) of the head note to **T Jamaica** which states as follows:

"Where the appeal can be fairly determined on the merits by the judge, it is inappropriate to allow it without substantive consideration simply for a decision to be made in accordance with the law."
6. In reply Mr Nasim argued that remittal to the respondent was appropriate because the decision maker had not considered Article 8 of the ECHR. He acknowledged that no Article 8 claim had specifically been made by the appellant but argued that it was still necessary for the Entry Clearance Officer to have considered that aspect.
7. I am satisfied that there was a material error of law in the First-tier Tribunal decision for the precise reasons set out in the grounds. The case of **T Jamaica** is clear. It was the duty of the judge to make his decisions on all the evidence before him and not simply to have failed to grasp the issues and make decisions on the evidence. I note also that the appeal of the first appellant (the husband) was capable of being determined on its own but the judge failed to make any findings or decision in respect of that appeal.
8. For the record I have noted that the DNA evidence of the second and third appellants was accepted by the respondent. No issue therefore turns on their relationship to the sponsor.

9. The decision of the First-tier Tribunal must be set aside in its entirety. Regrettably, the First-tier Tribunal Judge failed to make any decision on any of the evidence and the case must therefore be remitted to the First-tier Tribunal for a full rehearing.

### **Notice of Decision**

**The First-tier Tribunal decision contained a material error of law. I set the decision aside in its entirety. I remit the appeal to the First-tier Tribunal in Birmingham for a full rehearing before any judge (other than Judge Camp).**

No application was made for anonymity and accordingly I make no such direction.

Designated Judge David Taylor  
Deputy Upper Tribunal Judge  
23 March 2015