



IAC-FH-AR-V1

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

Appeal Numbers: IA/50192/2014  
IA/50198/2014  
IA/50211/2014  
IA/50222/2014  
IA/50225/2014  
IA/50234/2014

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 24<sup>th</sup> February 2016**

**Decision & Reasons Promulgated  
On 14<sup>th</sup> March 2016**

**Before**

**UPPER TRIBUNAL JUDGE MARTIN**

**Between**

**YUSIMBOM [S]**

**NGELAH [S]**

**[B S]**

**[J S S]**

**[C S]**

**[J E S]**

**(ANONYMITY DIRECTION NOT MADE)**

Appellants

**and**

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

Respondent

**Representation:**

For the Appellants: Miss L Longhurst-Woods

For the Respondent: Miss S Sreeraman, Home Office Presenting Officer

### **DECISION AND REASONS**

1. This is an appeal to the Upper Tribunal by the Appellants in this case of which there are six, a family from the Cameroon who had applied for leave to remain in the United Kingdom on human rights grounds based on their private and family life. The appeals came before Judge Amin at Richmond in July 2015 and by a decision promulgated on 5<sup>th</sup> August 2015 she dismissed the appeals.
2. Permission to appeal was granted in relation to extraordinarily long grounds by a Judge of the First-tier Tribunal in January of this year. When you distil the grounds down and Miss Longhurst summarised them before me, the main problems asserted in relation to the judgment and which find favour with me are firstly, the way the judge has dealt with the independent social worker's report. The judge has criticised the report in all probability quite properly in relation to irrelevant matters that were included about separation of children from parents, but then does not engage with the parts of the report which were relevant, namely separation from other trusted adults, friends and all that the children have known in the United Kingdom.
3. The second error that has been identified is the situation with regard to the health of the children. The judge specifically refers to the absence of medical evidence at paragraph 51 when there was in fact medical evidence from a Cameroonian doctor indicating that the child [BS] requires medical treatment which would not be available in Cameroon.
4. That evidence, however, it has to be said is wholly inadequate for the purposes of an appeal in that it does not specify exactly what the medical issue is and what treatment is required and that would be necessary for a proper consideration of the health issues.
5. The third error that has been identified was the large amount of objective evidence that had been put into the bundle on the appellants' behalf as to the situation that the family would face in Cameroon in terms of living conditions, education, employment prospects and so on, and the judge in the judgment has referred to evidence put in by the Secretary of State and the COI Reports and other documents put in by the respondent from FAKO News Centre but ignores completely the evidence put in by the Appellant. It may be that the evidence put in by the Appellant is less impressive but that does not mean it can be ignored altogether and it has to be looked at,

analysed and then reasons given as to why one set of evidence is preferred over another.

6. Lastly the judge refers to the case of EV (Philippines) [2014] EWCA Civ 874 with regard to there being no obligation on the UK to educate the entire world at public expense but failed to consider at all the arguments put forward and reliance that was placed by the Appellants on another case of R (on the application of Zermani) [2015] EWHC 1226 (Admin). Consideration should have been given to both parties' submissions in assessing proportionality, including the claim that the first Appellant is a considerable asset to the community in the UK. That is not to say they would necessarily succeed on that basis but it is a matter that has to be considered and was not considered by the judge in this case.
7. The Secretary of State sought to defend the decision and it is certainly true that when you read the judgment which is a lengthy document, running to some 13 pages and 85 paragraphs, it does appear to be a detailed and thorough consideration of the evidence. However it is only when the evidence that the judge has not taken into account is pointed out that it appears to be a rather one sided assessment taking into account arguments and entry clearance put forward on behalf of the Secretary of State while discounting evidence and submissions advanced on the Appellants behalf.
8. For that reason I find that the Decision and Reasons is tainted by several material errors of law and as they go to the heart of the proportionality assessment and whether it is reasonable for this family to be removed to the Cameroon I set it aside in its entirety.
9. Given the amount of documents, amount of oral evidence and number of issues to be decided it is appropriate, this being the first time it has been in the Upper Tribunal, that the case is remitted to the First-tier Tribunal for a full rehearing.

### **Notice of Decision**

10. I would direct that because of the amount of evidence previously submitted, the disarray in which the bundle currently finds itself and the fact that there is a new supplementary bundle, the Appellants' representatives before the new hearing should file one indexed and paginated bundle containing all of the evidence to be relied upon.

No anonymity direction is made.

Signed

Date 4<sup>th</sup> March 2016

Upper Tribunal Judge Martin