



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Numbers: HU/08587/2015
HU/08588/2015
HU/08591/2015

THE IMMIGRATION ACTS

Heard at Field House
On 4 July 2018

Decision & Reasons Promulgated
On 10 July 2018

Before

DEPUTY UPPER TRIBUNAL JUDGE HILL QC

Between

MR M A A

MR S A A

MR Y A A

(ANONYMITY DIRECTION MADE)

Appellants

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellants: Ms G Loughran, Counsel, instructed by Wilson Solicitors LLP
For the Respondent: Mr E Tufan, Senior Home Office Presenting Officer

DECISION AND REASONS

1. This is an appeal from a decision of First-tier Tribunal Judge Lucas promulgated on 6 June 2017.
2. The three appellants, minor siblings who are Somali citizens living in Addis Ababa, sought entry clearance. The sponsor is their father. Such evidence as there was before suggested that the appellants' mother, who had primary care of the three children, had

died some time in 2015. The mother's husband informed the sponsor that he should make arrangements for the children, and it is the appellants' case that from that time onwards the sponsor, being their natural father, became responsible for them.

3. The judge in the First-tier Tribunal seemed to take a robust and immovable view that the inability of the appellants to lodge an authenticated certificate dealing with the death of the appellants' mother was of great significance. It was a matter adverted to on several occasions during the course of the decision. The judge did not appear to give any meaningful consideration to the reasons why, having regard to the political situation in war-torn Somalia prevailing at the time, a death certificate may not have been issued or retained. This was a material consideration which should have been entertained and addressed by the judge.
4. The judge appears to have founded his decision almost exclusively upon the lack of corroboration of the fact that the appellants' mother had died, there being no death certificate. He says in paragraph 25: "This is an unlikely and wholly unsupported assertion." With respect to him, an explanation for the absence of documentary corroboration had been given and its credibility should have been examined and assessed by the judge. It was not. Indeed, to imply that corroboration is a legal or procedural requirement is a misdirection: **Kasolo v Secretary of State for the Home Department (13190)**.
5. In addition, the judge did not deal in any meaningful way with the extent to which the appellant may have become solely responsible for the appellants following their mother's death. As the detailed written grounds, settled by Ms Loughran of counsel, persuasively argue, there were elements in the evidence the sponsor assuming responsibility for the welfare, upbringing and education of the children in circumstances suggestive of a chronological nexus with the alleged death of the mother. The judge appears to have given little or no regard to the making of these important decisions in the children's lives and instead placed undue weight on one factor, namely the relatively low level of financial assistance which might have been given. The judge seemed to draw an adverse inference from the lack of interaction between the sponsor and the appellants prior to 2015, notwithstanding that at the core of the appellant's case was the fact that responsibility for the appellants did not devolve onto the sponsor until the mother's death that year. While the mother had been alive, she had sole (or at least principal) responsibility for the appellants.
6. Finally, no consideration was given by the judge in this instance of the best interest consideration of the three infant appellants, not any proper Article 8 analysis: **Mundeba (s 55 and para 297(1)(f)) [2013] UKUT 0088 (IAC)**.
7. Mr Tufan, on behalf of the Secretary of State, realistically accepts that the reasoning in the decision is less than adequate. The basis upon which the decision is made is not apparent and it cannot safely be relied on. As issues identified as inadequate go to the very core of the appeal, it would not be appropriate to retain this matter in the Upper

