



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

Appeal Numbers: HU/08995/2017  
HU/08996/2017  
HU/09000/2017

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 14<sup>th</sup> September 2018**

**Decision & Reasons Promulgated  
On 25<sup>th</sup> September 2018**

**Before**

**UPPER TRIBUNAL JUDGE MARTIN**

**Between**

**MRS SAGHIR AKHTAR  
MR ABDUL QAYYUM  
MR NADEEM QAYYUM  
(ANONYMITY DIRECTION NOT MADE)**

Appellants

**and**

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

Respondent

**Representation:**

For the Appellants: Mr P Richardson (Nasim & Co Solicitors)  
For the Respondent: Mr I Jarvis (Senior Home Office Presenting Officer)

**DECISION AND REASONS**

1. These are three appeals to the Upper Tribunal by the Appellants who are mother, father and adult son. The facts of the case are far from straightforward but essentially the grounds of appeal argue that the Judge in the First-tier Tribunal, Judge Garbett, in a Decision and Reasons promulgated on 5<sup>th</sup> April 2018, erred in firstly failing to take proper account of family life with regard to the parents' relationship with their various grandchildren in the United Kingdom and also failed to take proper account of the fact that the adult son has a wife and children in the United

Kingdom who have been given discretionary leave, although it was not clear how long for.

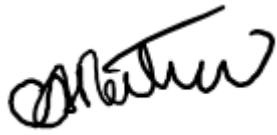
2. On the face of it, reading the Decision and Reasons, it would appear those grounds are not justified. However, as Mr Richardson has pointed out, the history of this case is very unusual. The whole family, not just these Appellants, have been in the United Kingdom for a very long time. The parents were granted a period of discretionary leave to remain on 10<sup>th</sup> April 2014 for 30 months and those grants are contained in the bundle. On the same day their adult son was also given discretionary leave for the same period. Unfortunately, nobody is able to tell me the basis upon which the discretionary leave was granted; however, it was. The actual grant letters themselves are contradictory in that on the one hand they say when the period of leave expires they should leave the United Kingdom and on the other hand say that if they amass a continuous period of leave of ten years then they can apply for ILR. What the Judge has not done is considered in any detail the history of this case and why it is that these three Appellants, who were given discretionary leave on human rights grounds in 2014, should now have their applications, which I am told were on the same basis, refused. That has not been considered by the Judge and that I find to be a material error of law which could clearly have an impact on the ultimate Decision.
3. After some discussion it was agreed that it would be appropriate for this case to be remitted to the First-tier for a full rehearing. On that basis I do not preserve any of the findings and the matter will have to be reheard in full. **However, I do direct the Appellants' representatives to file a full and detailed skeleton argument, and by that I mean drawing the attention of the First-tier Tribunal to the complex background history and arguments that they rely on. I do not mean a recitation of case law. So far as the Secretary of State is concerned I direct the Secretary of State to provide information as to the basis on which the discretionary leave was granted in 2014 and what the Secretary of State says is now different, particularly when the entirety of the rest of the family are all here on a permanent basis.**

### **Notice of Decision**

4. The Appellants' appeals to the Upper Tribunal are allowed to the extent that the Decision and Reasons is set aside in its entirety and the matter is to be listed before the First-tier Tribunal with directions as set out at 3 above. The appropriate hearing centre is Taylor House given that the family live in Bedford and the representatives are in London.

No anonymity direction is made.

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Signed  
2018  
Upper Tribunal Judge Martin

Date 20<sup>th</sup> September