



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case Nos: UI-2023-003217
UI-2023-002318
First-tier Tribunal Nos:
EA/06903/2022
EA/06905/2022

THE IMMIGRATION ACTS

Decision & Reasons Issued:
On the 06 March 2024

Before

DEPUTY UPPER TRIBUNAL JUDGE BEN KEITH

Between

MD Delwar Hossain (First Appellant)
Morsheda Hossain (Second Appellant)
(NO ANONYMITY ORDER MADE)

Appellants

and

Entry Clearance Officer (Secretary of State for the Home Department)

Respondent

Representation:

For the Appellants: Commonwealth Solicitors did not attend
For the Respondent: Ms Isherwood, Senior Home Office Presenting Officer

Heard at Field House on 29 January 2024

DECISION AND REASONS

1. This is a remaking decision pursuant to an error of law judgment that I gave on 12 October 2023 and ordered be remade before the Upper Tribunal.
2. This is an appeal in relation to the application made for the Appellants as Dependent parent to join their daughter Shaheda Akter, an Italian citizen and therefore an EEA national, born on 16 October 1982 (the sponsor). The Appellants claim that she sends them money on a regular basis and as a result of that and the familial relationship that they are dependants of her and should be granted the EUSS Family Permits.
3. As with the last hearing in October the Tribunal received correspondence which stated that the clients were not in funds sufficient to pay for a barrister to attend this hearing. I was therefore invited to continue with the hearing and make a

decision on the papers. There was no objection from the Home Office and so I proceed to remake the decision as it is in the interests of justice.

4. I ordered on the last occasion that the evidence relied upon be provided in 15(2A) formats. The Appellants complied with that direction and provided the DNA evidence proving familial relationship. In addition, there was a bundle entitled BUNDLE B of 33 pages which I considered and admitted.
5. The issue of familial relationship is proved by the DNA evidence. The Home Office did not dispute that evidence. I therefore find that there is a proved familiar relationship.
6. Ms Isherwood submitted that although there was a familial relationship there was no evidence of dependency, there was no evidence of the financial or living situation
7. The new evidence provides some additional bank transfers and photographs of the family but not evidence of dependency. There are four bank transfers of £203, £212, £191.08 and £692.04. There is no context to these transactions, there is no evidence of what the money is used for. Whether it shows or is capable of showing dependency or is a top up of income or is gifts or something else. I note from the FTT bundle there is some limited evidence that they pay £150 per month in rent. Other than that and the assertions in the witness statements that they are dependent there is no corroborating, contextual or supporting evidence.
8. This is the same position as before the First Tier Judge who dismissed the appeal. The position in my view is not materially different. The Appellant's must prove their case on the balance of probabilities and have provided only bank transfers and an assertion of dependency.
9. As a result, I find that they have not proved dependency.
10. I therefore dismiss the appeal.

Disposal

11. Appeal dismissed

Ben Keith

Judge of the Upper Tribunal
Immigration and Asylum Chamber

30 January 2024