



**The Upper Tribunal
(Immigration and Asylum Chamber)
OA/01959/2013**

Appeal numbers:

**OA/01960/2013
OA/01961/2013
OA/01962/2013
OA/01963/2013
OA/01964/2013
OA/01965/2013
OA/01966/2013
OA/01967/2013**

THE IMMIGRATION ACTS

Heard at Manchester

Determination

On September 22, 2014

Promulgated

On October 15, 2014

Before

DEPUTY UPPER TRIBUNAL JUDGE ALIS

**MASTER MOHAMMED MUSTAFA SHEIKH (1)
MISS AYAN ABDAKAERIN MOHAMMED (2)
MISS BUSHRA ABDAKAERIN (3)
MISS JAWA MUSTAFA SHEIKH (4)
MASTER MUBARAK SHEIKH (5)
MASTER ABDINASIR MUSTAFA SHEIKH (6)
MR MUSTAFA SHEIKH MOAWIYA (7)
MASTER AHMED MUSTAFA SHEIKH (8)
MISS REEMA MUSTAFA SHEIKH (9)
(NO ANONYMITY DIRECTION MADE)**

Appellant

and

ENTRY CLEARANCE OFFICER

Respondents

Representation:

For the Appellant: Mr McVeety (Home Office Presenting Officer)
For the Respondent: Mr Singh (Legal Representative)

DETERMINATION AND REASONS

1. The appellants, born December 16, 1998, May 5, 2004, February 2, 2003, June 16, 1997, October 6, 2009, December 13, 2000, March 2, 1956, November 17, 1999 and March 6, 2001 respectively are citizens of Somalia. They applied on September 28, 2012 for entry clearance under the Family Reunion policy as set out in paragraphs 352A and 352D HC 395.
2. Appellants (1), (4)-(6), (8) and (9) are the sponsor's (Hawa Mohammed Noor) natural children. Appellants (2) and (3) are the sponsor's adopted children. Appellant (7) is the sponsor's spouse.
3. On November 25, 2012 the respondent refused all of their applications because:
 - a. The sponsor's husband had failed to demonstrate he was married to a person granted asylum or intended to live permanently together and the marriage was subsisting as required by paragraph 352A(i) and (iv) HC 395.
 - b. The remaining appellants had not established they were the sponsor's children or were part of a family unit of the person granted asylum as required by paragraph 352D(i) and (iv) HC 395.
4. The appellants appealed to the First-tier Tribunal under Section 82(1) of the Nationality, Immigration and Asylum Act 2002 on December 27, 2012.
5. On December 20, 2013 Judge of the First Tier Tribunal Edwards (hereinafter referred to as the "FtTJ") heard their appeals and in determination promulgated on January 2, 2014 he refused their appeals. Although he accepted that paragraphs 320(3) and 320(7A) HC 395 did not apply to family reunion appeals he nevertheless went onto dismiss their appeals because false documents had been used.
6. The appellants lodged grounds of appeal on January 21, 2014 and on February 6, 2014 Judge of the First-tier Tribunal Davidge gave permission to appeal finding it was arguable the FtTJ had erred by dismissing the appeals on the basis of false documents.
7. The matter came before me on the above date.
8. Mc McVeety conceded that the paragraphs 320(3) and 320(7A) HC 395 did not apply to these appeals. The FtTJ had accepted this at paragraph [26] of his determination. However, in

paragraphs [27] to [29] of his findings he rejected the appeals because of the false documents. This was a clear error as he had accepted they could not be refused on this basis. Correct passports and DNA evidence had been submitted and no issue had been taken with these at the hearing. The appellants therefore must meet the Rules.

9. I concurred with Mr McVeety's sensible approach and did not require Mr Singh to address me.
10. I am satisfied the FtTJ was wrong to refuse these appeals for the reasons given in paragraphs [27] to [29] of his determination. The appellants met the requirements of paragraphs 352A and 352D of the Immigration Rules.

Decision

11. The decision of the First-tier Tribunal did disclose an error in law. I set aside the original decisions and allow all of the appeals under the Immigration Rules.
12. Under Rule 14(1) The Tribunal Procedure (Upper Tribunal) Rules 2008 (as amended) the appellant can be granted anonymity throughout these proceedings, unless and until a tribunal or court directs otherwise. No such order was made in the First-tier and I see no reason to make such an order now.



Signed:

Dated:

Deputy Upper Tribunal Judge Alis

TO THE RESPONDENT

I do not make a fee award for the same reasons as previously given.



Signed:

Dated:

Deputy Upper Tribunal Judge Alis