



**Upper Tribunal
(Immigration and Asylum Chamber) Appeal Numbers: OA/05115/2014
OA/05114/2014**

THE IMMIGRATION ACTS

**Heard at Field House
On 1 September 2015**

**Decision & Reasons
Promulgated
On 4 September 2015**

Before

UPPER TRIBUNAL JUDGE PITT

Between

**ELIZABETH GAMUCHIRAI BVORO
MUSTSA BYRON BVORO
(ANONYMITY DIRECTION NOT MADE)**

Appellants

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellants: No representation

For the Respondent: Ms E Savage, Home Office Presenting Officer

DECISION AND REASONS

1. This is an appeal against the decision of First-tier Tribunal Judge Cheales promulgated on 3 February 2015 which refused the entry clearance applications of the two minor appellants.

2. The hearing before Judge Cheales was on 15 January 2015 in Birmingham. The sponsor, Mr Brian Bvoro, was not in attendance at the hearing and there was no explanation for this before Judge Cheales. Judge Cheales went on to refuse the appeals finding that it had not been shown that the UK sponsor had sole responsibility for the children where EECO visits to the appellants' home and interviews with family members suggested that they were still being care for by their mother.
3. Following promulgation of the First-tier Tribunal decision the sponsor applied for permission to appeal. He was granted permission in a decision dated 14 April 2014 of Judge Ransley. The appeal was put on the basis that Mr Bvoro had missed a flight to the UK from Zimbabwe which had prevented him from attending the hearing on 15 January 2015. This was material where he wanted to address the evidence in the ECO's visits but had not had the opportunity to do so.
4. Mr Bvoro attended the hearing before me. His oral evidence was that he had booked a flight for Tuesday 13 January 2015 which would have allowed him to arrive in the UK on Wednesday 14 January 2015 but that he missed that flight. He showed me evidence of that flight having been booked on his mobile telephone. There was no documentary evidence that he had missed that flight and had to book another, however. Mr Bvoro stated that he had paid for the second return flight by credit card but did not provide any statements showing that to be so. He did not provide a boarding card or other documentation showing that he travelled on a later flight. It did not appear to me that there could be any difficulty in providing those documents with the grounds of appeal or to me. There was nothing however.
5. I also noted that Mr Bvoro confirmed that he did not attempt to contact the First-tier Tribunal on either 13 or 14 January 2015 having missed his return flight. He also stated that hr did not contact the Tribunal after returning on 16 January 2015 but waited for the decision of Judge Cheales.
6. It is clear to me that there was nothing before Judge Cheales to explain the non-appearance of the sponsor before him. It does not appear to me, therefore, that the judge could be said to have been in error in proceeding in the absence of the sponsor. Further, it was not my view that the evidence before me showed that Mr Bvoro missed his flight and that he should therefore have a second chance to address the discrepancies in the evidence which led to the appeal being refused. Judge Cheales was manifestly entitled to find that the sponsor did not have sole responsibility given the evidence before him.
7. For these reasons I did not find an error in the decision of the First-tier Tribunal.

Signed 
Upper Tribunal Judge Pitt

Date

