



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2022-005002
UI-2022-005003
UI-2022-005004
First Tier: EA/01594/2021
EA/01590/2021
EA/01588/2021

THE IMMIGRATION ACTS

Decision & Reasons Issued:
On the 21 June 2023

Before

UPPER TRIBUNAL JUDGE LANE
DEPUTY UPPER TRIBUNAL JUDGE GRIMES

Between

ADED ABDULLAHI ALI and others
(NO ANONYMITY ORDER MADE)

Appellant

and

Entry Clearance Officer

Respondent

Heard at Field House on 25 April 2023

DECISION AND REASONS

1. The first appellant, Aded Abdullahi Ali (AA) was born on 06 February 2003. The second appellant, Idil Ali Aded (IAA) was born on 03 November 2005. The third appellant, Abdirahman Ali Abed (AAA) was born on 09 May 2004. The appellants are citizens of Somalia and are siblings. The appellants applied for a EEA Family permit as an extended family member of an EEA citizen, Abdi Ali Aded (Sponsor), their brother. On 12 January 2021, the respondent refused both their applications. By a decision promulgated on 13 July 2022, the First-tier Tribunal allowed the appeals. The Secretary of State now appeals, with permission, to the Upper Tribunal.
2. The grounds are brief and we set them out in full:

Failure to take into account and/or resolve conflicts of fact or opinion on material matters

(a) It is respectfully submitted that the First Tier Tribunal Judge (FTTJ) has materially erred in law by failing to make findings on the sponsor's ability to support the Appellants without additional recourse to public funds, should they were granted family permits to enter the UK.

(b) The refusal notices for all three appellants contain the following paragraph, "The submitted evidence shows that your sponsor earns approximately £845 per month, however you have not provided any further documentation evidencing his current financial situation in the United Kingdom. Due to his low income and lack of documentation, I am not satisfied that it is sustainable for your sponsor to financially support you while meeting his own needs and the needs of any family members already reliant upon him."

(c) It is submitted that the refusal notice raised the issue of all three Appellants ability to satisfy the requirements of Regulation 13(3) of the Immigration (European Economic Area) Regulations 2016. As this issue was not resolved by the FTTJ with evidence based reasons, it is submitted that the FTTJ has materially erred in law by finding that the requirements of the 2016 Regulations are met. Permission to appeal is respectfully sought.

3. The judge carefully considered the evidence. At [19-20] he wrote:

I have carefully considered the money transfer receipts. There is money transfer receipts from January 2020 to November 2020. They show, money being sent to Ali Abdi Aden (A1) in regular amounts of between \$200-\$300 every month. The sponsor has also provided the transfer receipts he received when paying the money from the UK, showing he has transferred between £167-£268.00. These amounts are consistent with the sponsors account in his statement.

The sponsor in his statement dated 23 November 2020 (p73/RB), explains that he arranged for his siblings to leave Somalia and be brought to Kenya. This was to facilitate him in making application for them to join him here in the UK. In doing so, he enlisted the help of a family friend in Kenya, A1, who agreed to look after the children on a temporary basis. It is claimed A1, receives the money from the sponsor, which is solely paid for him to accommodate and care for the children. A1, has also provided a short statement confirming this arrangement (P108/Appeal docs). There is also a letter from the appellant's college dated 08 November 2020, confirming the appellant's brother (AA) has responsibility for them and has paid school fees from September 2019- March 2020. Given, the appellants situation as minor orphans, I find the account given plausible and persuasive. Accordingly, I find the appellants have been financially dependant on the sponsor for their essential living needs, given he now has responsibility for them.

4. In our opinion, the judge considered all the relevant evidence and has, contrary to stated by the respondent in the refusal letter and the grounds of appeal, found that, notwithstanding may be described as having what may described as a low income, the sponsor has made the payments to the appellants which he claims to made. The judge noted the support received from other relatives whilst his finding that ' given, the appellants situation as minor orphans, I find the account given plausible and persuasive' was available to him on the evidence. The grounds, therefore, amount to no more that a disagreement with findings available to the judge on the evidence. Accordingly, the appeal is dismissed.

Notice of Decision

The Secretary of State's appeal is dismissed.

C. N. Lane

Judge of the Upper Tribunal
Immigration and Asylum Chamber

Dated: 2 June 2023