



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

Appeal Number: HU/21364/2016
HU/22443/2016
HU/22446/2016

THE IMMIGRATION ACTS

**Heard at Field House
On 14 August 2017**

**Decision Promulgated
On 16 August 2017**

Before

UPPER TRIBUNAL JUDGE CANAVAN

Between

**OSARUMWENSE OMOROGBE
(and two dependent children)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the appellant: Mr J. Jamil of Arndale Solicitors
For the respondent: Mr E. Tufan, Senior Home Office Presenting
Officer

DECISION AND REASONS

1. The first appellant (“the appellant”) and her two children (“the second and third appellants”) appealed against the respondent’s decision dated 18 August 2016 to refuse a human rights claim.

2. It is not necessary for the Tribunal to set out the full course of events relating to the lodging of the appeals. The evidence shows that the appeals of the first appellant and her children were lodged separately. As a result the appeals were not dealt with as linked appeals as would normally be appropriate. Having considered both sets of files, mostly likely the problem was caused by the appellants' previous legal representative who filed bundles separately without reference to all three court reference numbers. The way in which her previous representatives handled the matter led to separate determinations by two different First-tier Tribunal judges on the papers. First-tier Tribunal Judge Powell dismissed the appellant's appeal in a decision promulgated on 21 November 2016. First-tier Tribunal Judge Tobin dismissed the appeals of the two children in a decision promulgated on 16 May 2017. Because of the way in which the appeals were handled, and through no fault of their own, neither judge had sight of a bundle of documents prepared by the appellant in support of the appeal. Mr Tufan accepted, as a matter of fairness, that it was appropriate to remit the appeals to the First-tier Tribunal for a fresh hearing.
3. Rule 40 of The Tribunal Procedure (Upper Tribunal) Rules 2008 allows the Upper Tribunal to give a decision orally at a hearing. Rule 40(3) states that the Upper Tribunal must provide written reasons with a decision notice to each party as soon as reasonably practicable after making a decision which finally disposes of all issues in the proceedings. Rule 40(3) provides exceptions to the rule if the decision is made with the consent or the parties or the parties have consented to the Upper Tribunal not giving written reasons. In this case both parties consented to the decision at the hearing so it is not necessary to give detailed reasons.
4. The First-tier Tribunal decisions are set aside on grounds of procedural fairness and the appeals are linked and remitted to the First-tier Tribunal for a fresh hearing. The appeals were initially listed for determination on the papers, but will now be listed for oral hearing.

DECISION

The First-tier Tribunal decisions involved the making of errors of law

The decisions are set aside

The appeals shall be remitted to the First-tier Tribunal for a fresh hearing

Signed  Date 14 August 2017
Upper Tribunal Judge Canavan