



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

**Appeal Number:
On appeal from
UI-2021-001574 EA/01137/2021
UI-2021-001575 EA/01141/2021
UI-2021-001576 EA/01149/2021
UI-2021-001577 EA/01294/2021**

THE IMMIGRATION ACTS

**Heard at Birmingham
On the 22 September 2022**

**Decision & Reasons Promulgated
On the 09 November 2022**

Before

**DEPUTY UPPER TRIBUNAL JUDGE PARKES
UPPER TRIBUNAL JUDGE HANSON**

Between

**FAIZA MOHAMED ABDIRAHMAN
NAJMO AWIL MOHAMED
ARAFAT AWIL MOHAMED
ABDULAZIZ AWIL MOHAMED
(ANONYMITY DIRECTION NOT MADE)**

Appellants

And

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

For the Appellants: Mr M Burkinshaw (Solicitor, Sabz Solicitors)
For the Respondent: Mr C Williams (Home Office Presenting Officer)

DETERMINATION AND REASONS

1. The Appellants sought permission to appeal against the decision of First-tier Tribunal Judge Alis who had dismissed their appeals in a decision promulgated on the 22nd of July 2021. They had applied for EEA family permits as the extended family members of the Sponsor, Shukri Jama, a Dutch national in the UK exercising treaty rights.
2. In the First-tier Tribunal the appeals were given the following numbers EA/01137/2021, EA/01141/2021, EA/01149/2021, EA/01294/2021. The appeals were dismissed with the Judge finding that that it had not been shown that The Appellants were related to the Sponsor as claimed. There was no DNA evidence. The Judge considered the documentary evidence at paragraphs 31 to 35 and rejected the reliability of the documents on the basis that there were variations in the spellings of the Sponsor's father's name on the birth certificates for the Sponsor and First Appellant's mother. In addition the Judge was not satisfied that the Appellants could be maintained in the UK and found that they would become a burden on the state.
3. The grounds of application for permission to appeal to the UK complain that the Judge did not give the Sponsor and the representative the opportunity to address this issue. It is asserted that the use of the letter X for H in Somalia is common knowledge. As a panel we are not familiar with the substitution of the letters as claimed and that will need to be the subject of reliable independent evidence. The grounds also challenge the Judge's findings with regard to future dependency.
4. At the start of the hearing Mr Williams indicated that he accepted that the Judge had erred in finding that the documentation was not reliable having regard to the point not being put to the Sponsor and representatives in the course of the Sponsor giving evidence. On that basis the decision is fundamentally flawed by a material error and cannot stand. Mr Birkumshaw indicated that the Appellants would be obtaining DNA evidence for the next hearing.
5. Although it was not necessary to go further we are satisfied that the Judge erred in respect of the findings on future dependency. In the circumstances we set the decision aside, there are no preserved findings and accordingly it is appropriate to remit the case to the First-tier Tribunal for a hearing de novo not to be heard by Judge Alis.



Deputy Upper Tribunal Judge Parkes

2nd October 2022