



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case Nos:
UI-2022-002315 & UI-2022-002316
First-tier Tribunal Nos: EA/13662/2021& EA/13650/2021

THE IMMIGRATION ACTS

Decision & Reasons Issued:
On the 20 February 2023

Before:

UPPER TRIBUNAL JUDGE GILL

Between

**Mr Nicco Addio Ray Eddie
Miss Stinna Akosu Eddie
(ANONYMITY ORDER NOT MADE)**

**First appellant
Second Appellant**

And

Entry Clearance Officer

Respondent

Representation:

For the Appellants:

Mr E Akohene of Afrifa & Partners Solicitors.

For the Respondent:

Mr E Tufan, Senior Home Office Presenting Officer

Heard at Field House on 27 January 2023

DECISION

1. In an “error of law” decision signed on 8 January 2023 and sent to the parties on 9 January 2023, I set aside the decision of Judge of the First-tier Tribunal Lucas dismissing the appeals of the appellants following a hearing on 25 January 2022.
2. The “error of law” decision stated that the Upper Tribunal would re-make the decisions on the appeals of the appellants.
3. The appeals were listed for a case management review hearing today.
4. In relation to the first appellant:

- (i) By a letter dated 23 January 2023 to the Upper Tribunal, Afrifa & Partners stated “*We hereby give notice pursuant to paragraph 17 of the Upper Tribunal procedure rules that we are instructed by the [first] appellant to withdraw the above appeal.*”
 - (ii) Accordingly, by way of directions signed on 25 January 2023 and sent to the parties on the same date, I informed the parties that the Upper Tribunal proposed to consent to the first appellant withdrawing his case against the respondent's decision pursuant to Rule 17 of the Tribunal Procedure (Upper Tribunal) Rules 2008 with the result that the decision on his appeal against the respondent's decision would be re-made by dismissing his appeal. The parties were given an opportunity to make representations if they wished to do so against the Upper Tribunal's proposal.
 - (iii) By a letter dated 26 January 2023, the first appellant said:

“I have had time to reflect upon my previous instructions to my solicitors to withdraw the appeal. My initial reasons for withdrawing the appeal were borne out of frustration but on reflection I now believe I should complete the appeal process.

Accordingly pursuant to the directions given by Judge Gill I am giving notice that I wish to continue with my appeal and that my withdrawal notice through my solicitors be rescinded. I apologise for wasting the Tribunal's time.”
 - (iv) As the Upper Tribunal had not yet given its consent to the appellant's request to withdraw his case in the letter referred to at para (ii) above, his appeal was still extant before the Upper Tribunal. I could not ignore the fact that he no longer wished to withdraw his case. In the circumstances, I decided to accept the letter dated 26 January 2023 referred to at para (iii) as effectively rescinding the first appellant's request to withdraw his case.
 - (v) Accordingly, the appeal of the first appellant will proceed to a resumed hearing.
5. In relation to the second appellant, Mr Tufan confirmed that there were no other issues that the second appellant needed to satisfy. Accordingly, he accepted that the decision on her appeal against the respondent's decision should be re-made by allowing her appeal.

Decision

The appeal of Miss Akosu Eddie against the respondent's decision to refuse her application for a family permit under Appendix EU (Family permit) of the Immigration Rules is **allowed**.

Signed: Upper Tribunal Judge Gill

Date: 27 January 2023