



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

Appeal Numbers: OA/07102/2014
OA/03267/2014
OA/03266/2014
OA/03268/2014

THE IMMIGRATION ACTS

**Heard at Birmingham Employment
Centre
On 21 July 2015**

**Decision and Reasons
Promulgated
On 22 July 2015**

Before

DEPUTY UPPER TRIBUNAL JUDGE McCARTHY

Between

**MOHAMED ABDULLE MOHAMED (1)
MANDEQ SHIAWOW MOHAMED (2)
KAMAL SHIAWOW MOHAMED (3)
AHMED SHIAWOW MOHAMED (4)
(NO ANONYMITY ORDER)**

Appellants

and

ENTRY CLEARANCE OFFICER, NAIROBI

Respondent

Representation:

For the Appellant: Mr B Bedford, instructed by Sultan Lloyd Solicitors,
Birmingham

For the Respondent: Mr D Mills, Senior Home Office Presenting Officer

DECISION AND REASONS

1. Following the hearing on 31 March 2015, I found that the decision and

reasons statement of Designated Judge Coates contained errors of law that required it to be set aside and for the decisions to be remade. The parties have confirmed that they have copies of my decision.

2. This resumed hearing was arranged so I could hear further evidence in order to remake the decisions. At the start of the resumed hearing, Mr Mills made the following concessions.
 - a. The sponsor's evidence that she was married to the first appellant was credible and therefore his appeal succeeded under paragraph 353A of the immigration rules.
 - b. The sponsor's evidence that her husband cared for the three other appellants was also credible and because it would be unreasonable to expect the first appellant to abandon them their appeals must also succeed under Article 8 ECHR as the situation was exceptional.
3. Mr Mills outlined his reasons for these concessions.
4. Despite what may have been suggested during the hearing on 31 March 2015, the sponsor remained a refugee. This was evidenced by the fact that she had been issued with a UN Travel Document and not a British passport. Therefore, the first appellant succeeds as long as he can prove his relationship to her.
5. Despite what may have been suggested during the earlier hearing, the sponsor had initially been refused asylum and had appealed. She was granted refugee status after succeeding in her appeal in which First-tier Tribunal Judge Cheales found her to be credible.
6. Having perused in detail the Home Office files, Mr Mills admitted he had found nothing to undermine the positive finding that the sponsor was a credible witness. As such he realised he could not realistically argue that the sponsor's bare assertions that she was married to the first appellant and that he cared for the other three appellants were insufficient evidence to discharge the burden of proof.
7. I have no reason to go behind these concessions and I accept them. In so doing I remake the decisions and allow the appeals of all four appellants.

Signed

Date

Judge McCarthy
Deputy Judge of the Upper Tribunal