



**Upper Tribunal
(Immigration and Asylum Chamber) Appeal Numbers: UI-2021-001397
(EA/04160/2021)**

UI-2021-001398 (EA/04163/2021)

THE IMMIGRATION ACTS

**Heard at Field House
On the 24 March 2022**

**Decision & Reasons Promulgated
On the 07 September 2022**

Before

**UPPER TRIBUNAL JUDGE PERKINS
DEPUTY UPPER TRIBUNAL JUDGE JUSS**

Between

**NIKOLA KAJTANI
EDISON KAJTANI
(ANONYMITY DIRECTION NOT MADE)**

Appellants

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellants: Ms I Mahmud, Counsel instructed by Turpin & Miller LLP
For the Respondent: Miss A Ahmed, Home Office Presenting Officer

DECISION AND REASONS

1. This is an appeal against the decision of the First-tier Tribunal dismissing the appeal of the appellants against the decision of an Entry Clearance Officer refusing them admission to the United Kingdom as an extended family member of an EEA national.
2. The essential problem with the decision is that the First-tier Tribunal made adverse findings of fact without showing any consideration whatsoever of

the written and oral evidence of the mother of the first appellant which was entirely supportive of the first appellant's case. Miss Ahmed for the Secretary of State had considered her position and indicated at the start of the hearing that she could not defend the decision. It was impossible to say that proper consideration of the mother's evidence would not have made any difference and unless that could have been argued the determination was wholly unsatisfactory. We understand the point Miss Ahmed was making and we agree that the decision is unsound.

3. We have given consideration to the best way forward. It was suggested that the appeal be determined in the Upper Tribunal but we regard this as an error of such fundamental importance that the appellants did not have the benefit of a proper hearing and are entitled to a decision in the First-tier Tribunal with the view of maximising the opportunities of further appeal in the unhappy event of that being necessary.
4. The only other comment I make is that we do not uphold the anonymity order. We see no need for such an order in this case. We recognise that the second appellant is the son of the first appellant and is still a minor, being born in the end of 2012, but this is not a case where we see any need for anonymity and we will make sure that the names are added to the title when the papers are promulgated.
5. We appreciate this is an extremely short decision but it says all that needs to be said and we see no point in saying more in the course of detailed refinement.
6. I apologise for the delay in promulgating this decision. I gave an extempore judgement and was disappointed to realise that I had not promulgated the final decision.

Decision

7. In summary, the error of law is established. We set aside the decision of the First-tier Tribunal and we direct that the case be remitted to the First-tier Tribunal and determined again. There are no findings preserved.

Jonathan Perkins

Signed
Jonathan Perkins
Judge of the Upper Tribunal

Dated 6 September 2022