



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

Appeal Number: IA/21799/2014

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 8 September 2015**

**Determination Promulgated  
On 11 September 2015**

Before:

UPPER TRIBUNAL JUDGE GILL  
DEPUTY UPPER TRIBUNAL JUDGE SAFFER

Between

The Secretary of State for the Home Department

Appellant

And

Seye Johnson Ogunfolabi  
(ANONYMITY ORDER NOT MADE)

Appellant

**Representation:**

For the Appellant: Ms A Holmes, Senior Presenting Officer.

For the Respondent: Ms N Nnumani, of Counsel, instructed by Samuel Louis Solicitors.

**DETERMINATION AND REASONS**

1. The Secretary of State has been granted permission to appeal to the Upper Tribunal against a decision of Judge of the First-tier Tribunal A A Wilson who, following a hearing on 21 January 2015, allowed the appeal of Mr. Ogunfolabi (hereafter the "claimant") against a decision of the Secretary of State of 1 May 2014 refusing his request for an EEA residence card as confirmation of his right to reside in the United Kingdom as an extended family member of his brother, a Mr Gbemi Ogunfolabi (hereafter the "sponsor"), who was said to be an EEA national exercising Treaty rights.

2. The grounds contend (in summary) that Judge Wilson materially erred in law in finding that the claimant was dependent on the sponsor and lived as a member of his household, whilst in Belgium and in the UK. It is said that the judge did not refer to any evidence at [5]-[9] of the determination which pointed to dependency; that there was no reference to any evidence which indicated that the sponsor was living in Belgium with the claimant and supporting the claimant; and that there was no reference to evidence which indicated that there was continuing dependency in the UK.
3. Ms Holmes accepted that she could not argue that the judge erred in making a finding in the absence of documentary evidence. She relied upon the grounds.
4. The judge summarised the oral evidence at [2]. He made his positive findings at [5]-[8]. When the determination is read as a whole, it is plain that he relied upon the oral evidence that he heard in order to reach his findings. It is plain that he made his findings because he accepted the oral evidence, although he did not say so.
5. The grounds do not point to any internal inconsistencies or any other difficulties with the judge's determination. The only point taken is that the judge had not referred to the evidence of dependency in Belgium and the UK. However, this ignores the oral evidence that the judge summarised at [2] and which it is plain (as stated above) he accepted.
6. Accordingly, we have concluded that the judge did not err in law.

### **Decision**

The making of the decision of the First-tier Tribunal did not involve the making of an error on a point of law.

Signed

Date: 10 September 2015

Upper Tribunal Judge Gill