



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

Appeal Number: IA/49846/2013

THE IMMIGRATION ACTS

**Heard at Bennett House, Stoke
On 17th February 2015**

**Decision & Reasons Promulgated
On 25th March 2015**

Before

DEPUTY UPPER TRIBUNAL JUDGE GARRATT

Between

**OHEMAA AKUA DUFIE APPIAH
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: In person

For the Respondent: Mr A McVeety, Senior Home Office Presenting Officer

DECISION AND REASONS

1. As the appellant was unrepresented at the hearing before the Upper Tribunal, I explained the nature of the proceedings to her, particularly my initial task to decide whether or not the decision of the First-tier Tribunal Judge contained an error on a point of law. I assisted her to make submissions where relevant.
2. The appellant is a citizen of Ghana who appealed against the decision of the respondent on 19th November 2013 to refuse to issue a derivative residence card to her as the primary carer of her British child in accordance with the provisions of paragraph 15A of the Immigration (EEA) Regulations 12006 (as amended). That appeal was dismissed by Judge of the First-tier Tribunal T R P Hollingworth in a

decision sent out on 7th July 2014. An application to appeal to the Upper Tribunal was dismissed by a Judge of the First-tier Tribunal on 26th August 2014. However, following a renewed application to the Upper Tribunal, permission was granted on 9th December 2014 by Upper Tribunal Judge McGeachy.

3. Judge McGeachy thought it arguable that Judge T R P Hollingworth was wrong to conclude that the appellant was not her daughter's primary carer and that she did not qualify for leave to remain on the basis that her daughter's father could not care for her.
4. In her grounds of application the appellant had asserted that she was her daughter's primary carer but had admitted to receiving benefits and maintenance from her daughter's father. However, she pointed out that the father is in the British Army and would therefore be unable to care for his daughter if the Appellant were required to leave the country. The appellant also stated that she had received confirmation from her daughter's father to prove his service in the army although this information had not been available in a previous application.
5. Before me the appellant confirmed that her grounds of appeal statement of 8th July 2014 which accompanied the application for leave was correct and she still relied upon it. In this she re-asserts her claim to be the primary carer for her daughter and draws attention to the evidence which was before the First-tier Judge which, she believed, should have led him to that conclusion. She concedes that, although she could go back to Ghana where her parents live with her daughter she would find this difficult. She would like to take employment in the United Kingdom and possibly to start her own childcare business. She also explains how she pays her bills although conceding that this is with assistance from public funds and maintenance received from her child's father. She acknowledges that she has not received any removal decision.
6. At the hearing the appellant also expressed the view that the judge had not considered the letter from her GP asserting that she is the main carer for her daughter. She also emphasised that she did not believe the judge had fully considered her daughter's father's commitment to the army and his own family.
7. Mr McVeety commenced his submissions by pointing out that no removal decision had been made against the appellant and she was free to make an Article 8 claim if she wished. He then argued that the decision of the First-tier Tribunal did not show an error as there was clearly an alternative carer for the appellant's child even if there were logistical problems with the father being in the army. It was plain that the child's father did have an involvement with her.

Conclusions

8. Neither the grounds of application nor the permission identify a specific error in the judge's decision. The grounds, upon which the appellant continues to rely, amount to a re-assertion of her claims but no more. The decision is comprehensive and adequately reasoned.
9. The judge assisted the appellant to give her evidence after she had expressed her willingness to proceed without legal representation and the judge summarises the

appellant's evidence noting, in particular, that her child's father sees her when he can and pays maintenance of £180 per month by direct debit. The judge was entitled to reach the conclusion that there was no significant challenge to the conclusion that the child's father had normal parental contact and parental responsibility. In reaching that conclusion the judge commented on the absence of any confirmation from the father that he could not act in the capacity of a primary carer for the child and that it had not been shown that the father had abandoned his daughter who had taken his surname.

10. The judge was therefore not wrong in concluding, for the cogent reasons given, that the appellant did not meet the requirements Regulation 15A of the 2006 Regulations, particularly those set out in sub-paragraph (2) and the definition of "primary carer" set out in sub-paragraph (7). The judge was entitled to find that the appellant had not shown that the child's father was not in a position to care for her if the appellant were required to leave. The decision does not, for these reasons, show an error on a point of law.

Notice of Decision

The decision of the First-tier Tribunal does not show an error on a point of law and shall stand.

Anonymity

No anonymity direction is made.

Signed

Date **25th March 2015**

Deputy Upper Tribunal Judge Garratt