



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

Appeal Number: IA/51983/2013

**THE IMMIGRATION ACTS**

**Heard at Bennett House, Stoke-on-Trent**

**Determination**

**On 23<sup>rd</sup> March 2015**

**Promulgated**

**On 26<sup>th</sup> March 2015**

**Before**

**UPPER TRIBUNAL JUDGE MARTIN**

**Between**

**MISS RANEE APPALONIA WILLIAMS  
(Anonymity Direction Not Made)**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr G Brown (instructed by Fisher Meredith)

For the Respondent: Mr G Harrison (Senior Home Office Presenting Officer)

**DETERMINATION AND REASONS**

1. This is an appeal to the Upper Tribunal by the Appellant, with permission, against the determination of First-tier Tribunal Judge N M K Lawrence promulgated on 29th September 2014 by which he dismissed the Appellant's appeal against the Secretary of State's decision to refuse her leave to remain in the UK as the primary carer of her daughter.

2. Permission to appeal was granted by a Judge of the First-tier Tribunal on the basis that despite Article 8 being raised in the grounds and in the skeleton argument no mention was made by the Judge of Article 8. It was also alleged that the Appellant had not had sight of the Respondent's; bundle prior to the hearing and was misled by the Home Office Presenting Officer on the day as to its contents, being told it contained only the Letter of Refusal when it contained other relevant material referred to in the determination.
3. The grounds seeking permission to appeal are quite unnecessarily long as the issue in this case is straightforward.
4. The background to this appeal is that the Appellant, a Jamaican national who came to the UK as a visitor and overstayed, had a relationship with another Jamaican national who has Indefinite Leave to Remain in the UK. She had a child by him and as a result that child is British.
5. The Judge found, for good reason that the Appellant had been untruthful. However, the Judge appears to have allowed his low opinion of the Appellant and the child's father to lead him to fail to take into account relevant evidence and the law involved.
6. The father of the Appellant's child has fathered some 9 children by different mothers. It is clear from the evidence that he takes no ongoing responsibility or interest in any of them. There is a wealth of evidence from the Appellant that at the maternity unit she was treated as a single mother. She has been housed by a local authority as a single parent. Social services that support her treat her as a single parent and the school that the child attends know nothing of the father. It is clear from the evidence that the Appellant is the primary carer of her child. The Judge failed to take that evidence into account and that was an error of law material to the outcome and as such I set aside the determination.
7. I am able to redecide the appeal on the evidence that was before the First-tier Tribunal.
8. It may be that the Appellant has lied. It may be that the Appellant deliberately had a child by this man to protect her status in the UK. The father may have colluded in this. However that does not prevent her from having the benefit of Regulation 15A of the EEA Regulations. They are designed to protect the child, not the parent. Regulation 15A (4A) provides simply:-

P (the Appellant) satisfies the criteria in this paragraph if –

- (a) P is the primary carer of a British citizen (the relevant British citizen”);
- (b) the relevant British citizen is resident in the United Kingdom; and
- (c) the relevant British citizen would be unable to reside in the UK or in another EEA state if P were required to leave.

9. On the evidence before the First-tier Tribunal the Appellant has primary care of her daughter in accordance with Regulation 15A(7), comes within Regulation 15A (4A) and thus under Regulation 15A (1) is entitled to a derivative right to reside in the United Kingdom for as long as her child resides here.
10. Mr Harrison made no submissions to the contrary.
11. Having set aside the decision of the First-tier Tribunal I redecide the appeal and allow it under the EEA Regulations.

Signed

Dated 25<sup>th</sup> March 2015

**Upper Tribunal Judge Martin**