



**UPPER TRIBUNAL
(IMMIGRATION AND ASYLUM CHAMBER)
OA/09191/2014**

APPEAL NUMBER:

THE IMMIGRATION ACTS

**Heard at: Field House
on 18 January 2016**

**Decision and Reasons
Promulgated
on 10 February 2016**

Before

DEPUTY UPPER TRIBUNAL JUDGE MAILER

Between

ENTRY CLEARANCE OFFICER

and

**MR BRANDON NGONIDZASHE MARUTA
NO ANONYMITY DIRECTION MADE**

Appellant

Respondent

Representation

**For the Appellant: Mr S Kotas, Senior Home Office Presenting Officer
For the Respondent: Mr F Singarajah, counsel (instructed by
Permits2Work)**

DECISION AND REASONS

1. I shall refer to the appellant as the entry clearance officer and to the respondent as "the claimant."
2. The claimant's appeal against the decision of the entry clearance officer dated 10 July 2014 to refuse to grant him entry clearance to join his mother, was allowed by the First-tier Tribunal, in a decision promulgated on 8 June 2015. The sponsor appeared in person before the Tribunal. His

appeal was allowed under paragraph 297 of the Immigration Rules as well as on Article 8 grounds.

3. Permission to appeal against the decision was granted on 20 August 2015.
4. On 20 November 2015, the Upper Tribunal found that the decision of the First-tier Tribunal involved the making of an error on a point of law. The Judge's findings regarding the guidance given by the Court of Appeal in TD (Yemen (paragraph 297(i)(e): sole responsibility) [2006] UKAIT 00049 were not properly reasoned. The evidence revealed that the claimant's father had some control and direction relating in particular to schooling.
5. No attempt had been made during the course of the hearing before the First-tier Tribunal to obtain proper clarification from the sponsor, who was not represented, regarding the period and frequency of staying contact during weekends at his father's. There had moreover been no indication during the interview with the claimant's uncle that he intended to limit the number of joint decisions made regarding the claimant's schooling. Again, no clarification had been sought at the interview or by the Judge.
6. In the interviewer's summary, it was noted that the claimant lives with his maternal uncle and aunt and spends weekends with his father. It was also stated that the claimant seems to have a cordial relationship with his father, "since he regularly visits him." Finally it is noted that both parents render financial support to the claimant and "jointly make the decisions on his behalf like on schools".
7. In the circumstances, the finding by the First-tier Tribunal Judge at [21] that the father had abdicated responsibility did not appear to be borne out by the evidence which the Judge accepted, having regard to the uncle's assertions during the interview.
8. In the circumstances, it was held that the decision of the First-tier Tribunal involved the making of errors of law. The decision was set aside. None of the findings were preserved. It was directed that the decision be re-made by the Upper Tribunal. Directions were given relating to the filing and serving of witness statements, and any other evidence sought to be relied on at the hearing.

Hearing on 18 January 2016

9. At the date of the resumed hearing, the claimant was represented by counsel. I have had regard to the bundle of documents presented by both parties. There were eight 'Appendixes' produced by the claimant's sponsor.

The entry clearance officer's case

10. The entry clearance officer was not satisfied that his sponsoring parent had been able to show that she has been solely responsible in exercising parental care over the claimant for a substantial period. There was nothing to suggest that she had sole responsibility. Eight money transfer receipts had been submitted with regard to financial support from his sponsor. This

was regarded as very limited evidence of financial support. This is particularly so because the sponsor had been in the UK since 2003. Nor had he presented any evidence of regular contact with his sponsor.

11. Regard was also had to the interview conducted with the claimant's maternal uncle. He had been living with the uncle and aunt since his mother left in 2003. His father had been jointly supporting him along with his mother. The parents jointly decided the schools that he attends and he stays with his father during some weekends.
12. On that basis, the entry clearance officer was not satisfied that his mother had sole responsibility for his upbringing.
13. For this appeal to succeed I must be satisfied on the balance of probabilities, the burden being on the appellant, that he meets the relevant requirements under the Rules. The relevant date is the date of decision.

The claimant's case

14. Ms Sheillett Mountford, the claimant's mother and sponsor, attended the hearing and gave evidence. She produced a bundle A as well as the eight appendices. She adopted her statement at B6, pages 7-9, dated 20 February 2015. She also adopted her statement at A18 dated 13 January 2016. She lives at 37 Stanhope Road, Slough. She stated that the contents in the statements are true and correct.
15. In her earlier statement, she stated that she came to the UK during November 2002. Her son was then only six years old. He remained in Zimbabwe with her mother and sister. His father, although living in Zimbabwe, was not part of his life. She in fact had to take a DNA test to prove he was the father.
16. Even after that he did not support the claimant either emotionally or financially.
17. Whilst in the UK, she stayed with friends. She helped around. She was given a little pocket money to send home.
18. In March 2004, she "got my visa". She was then employed in a care home. By then the claimant was eight years old.
19. In August 2004, she discovered that she was pregnant.
20. In the following months her mother was diagnosed with cervical cancer and her twin sister with HIV/AIDS.
21. All plans to travel to Zimbabwe were shelved at that time as she had to pay for treatment for her mother. Her sister also needed emotional and financial support.
22. She gave birth to a son, Simba, in June 2005.
23. She claimed that she had been involved "in the day to day basis of Brandon's life, school reports, teachers, etc."

24. She went to Zimbabwe with her child, Simba, in March 2006 for a month.
25. In 2007 her mother passed away. She went to Zimbabwe for the funeral and left Simba with his father. Her sister was distraught and begged her not to take the claimant for a little while.
26. She was “awarded” a visa, which had been up for renewal, after successfully appealing in 2008. She was in financial straits at the time. She was not able to travel home until 2012. By then, the claimant was 16 years old.
27. She spoke to the claimant daily, sending him money monthly. In 2012 she spent a month in Zimbabwe and had a lovely time with the family. It was agreed that the claimant should finish his O levels and then apply for his visa.
28. In December 2013 an application for the claimant to visit the UK was refused.
29. She now has indefinite leave to remain and wants him to join her and his brother.
30. She is in full time employment and in a stable relationship. There is comfortable accommodation.
31. In her recent statement, she repeated that she has provided financial and emotional support for the claimant. She has produced as part of her evidence various letters, including a letter from Churchill School situated in Harare, Zimbabwe. The letter confirmed that the claimant was a student between 2010 and 2013. The school fees were being paid by his mother, the sponsor.
32. She said that she has provided for his upkeep by sending money to her siblings. She provides money for clothing, food and the like. She has attached various money transfers at the end of her Bundle A. This is for the period March 2015 until December 2015. I was informed that between 22 November 2014 and 22 February 2015, the amount of \$4957.51 was transmitted. There are further transactions for the period 17 March 2015 until 23 December 2015.
33. When the claimant was three, she filed for maintenance against his father. That was when a DNA test had to be taken proving that he was the claimant's father. However, despite winning her case, the father only made one payment of 50 Zimbabwe dollars. She tried to get financial help from him but was not successful.
34. She claimed that it was she who “initiated” opportunities for the claimant to have a relationship with his father. He was not willing to try. His father is married with another family. He “allegedly” has 31 children and has thus chosen not to be involved in the claimant's life. This she asserts is “abandonment”.
35. Her sister has managed to stabilise. Although still on medication she has fully recovered.

36. She struggled to renew her visa after it was initially denied. She had to spend money paying for a lawyer. This took a long time. She went home in 2012. It took her a long time to become financially stable again. Her solicitor told her to wait until she received indefinite leave to remain and then to apply for settlement. That took a very long time and she only managed to obtain that in March 2014. The claimant was then 17 years old. Her attempt to have him visit on holiday in 2013 was refused.
37. She was very angry and upset when she read the interview relied on by the entry clearance officer.
38. In her oral evidence, she was referred to the interview held with the claimant's uncle on 18 June 2014. With regard to his staying with his father on weekends, she said that there have been about ten occasions that are accountable which she initiated. She cannot remember the exact dates but it was roughly from 2004 until 2012. She did not "initiate anything else thereafter" from 2012. Prior to that, she initiated it by making telephone calls to the claimant's father. She was not aware of any visits since then. Her sister had tried to call the claimant's father but there was no response.
39. Between the claimant's date of birth in 1996 and 2002, there was very limited contact. She estimated that it was about twice a year that they met.
40. She was taken to the interview of the maternal uncle dated 18 June 2014. There the uncle was asked whether his father helps to support his son. The answer was "yes, after we press him to do so." He has however not given any emotional support. Financial assistance was "maybe once a year." That was when they pressed him.
41. Between 1996 and 2012, he probably provided about \$1,000 in total. He is not aware that he has contributed anything further since 2012.
42. She said that the claimant's father did not decide which school the claimant would attend. It was she who took the final decision. Before he started secondary school, she called his father and gave him the names, but he gave her no help in choosing a school. He started secondary school in about 2008.
43. From 2008 onwards his father was not involved at all regarding decisions as to which schools the claimant should attend. Moreover the relatives would consult her concerning any decisions that had to be taken in respect of the claimant.
44. In cross-examination, she was asked whether there had been any visits between the appellant and his father between 2012 and 2014. She is not aware of any. The claimant would let her know. Her relatives would have let her know.
45. She was referred to the uncle's response to the question asked at the interview whether the claimant visits his dad. The answer recorded is that

he stayed with him during some weekends. She said that she is not aware of this. This must relate to another period.

46. She said she used to phone the claimant daily. This was until he was nine, in 2005. He started secondary school when he was 12 years old. She would then call him about three times a week.
47. When he put his application in during May 2014, he was at Cosha Christian Centre. He was studying IT. His father lived in the same town as the claimant, which is about half an hour away by car. When he visited his father, the claimant was taken by her sister's car or his father would visit at her house.
48. She said that it is correct that she and the father are still in contact. This however is "because of Brandon." She had to obtain a statement from the claimant's father.
49. There is an affidavit produced at B6, page 2 from Mr Alois Ngondzashe Maruta dated 4 September 2014 - the claimant's father. He stated that he has not been responsible in any of the claimant's upbringing. He has never been able to provide for him financially as he is married and has a large family of his own. Schooling, food and all other daily living allowances were met by his mother. In the 18 years of the claimant's life he has never lived with him. He has hardly seen him due to his family situation and the difficulties it brought.
50. Mr Kotas asked why the father had been prepared to give such a statement. She said she told him that her son had been denied a visa including the points upon which the refusal was based. As a result, he then agreed to assist.
51. It was put to her that the father's statement, and in particular that he has never lived with him, "is slightly exaggerated." She said it was correct and truthful. He has never lived with him. It was she who paid for his education in total. Apart from the 14 years during which he contributed about \$1,000, there has been no other contribution.
52. She was asked why her sister and her husband asked him to supply money. She needed financial help, particularly at the time that she sponsored her mother's care. Her sister also had HIV. It was she who sponsored their care. Her mother's illness was between 2004 and 2008. She was treated until 2007. Her sister was diagnosed with HIV early in 2005. She continues to support her antiretroviral therapy.
53. It was put to her that it had been stated at the interview that they asked him for financial support. She said that when they needed something, for example food, and they did not have money, they might have asked.
54. She was referred to a letter at A20-21 from William Mountford, who lives in Zimbabwe. He is the claimant's uncle. He has stayed with him for the past 19 years. In those years, his father has not visited him, not more than nine times; not once has he brought him clothes. He has not brought him Christmas presents or even a phone call to wish him happy birthday. It

was the child's mother who provided him with everything with no help from his father.

55. She said that the claimant calls her "mummy" (there is reference in one of the letters produced which shows that he did call her "mummy").
56. She was asked how many children the claimant's father has. She said he has between 13-31. He is a retired engineer. She thinks he has several properties in Harare. He lives with his second wife and family.
57. She was asked whether the claimant nevertheless has contact with his father. She stated that her son would tell her. He has not told her that.
58. She was asked whether his father would not take an interest in his education. She gave him every opportunity to participate in the education. He had the opportunity to develop a relationship.
59. It was put to her that the claimant has not referred to the circumstances between himself and his father. She said that the interview should have been with the claimant.
60. She was referred to the claimant's letter "to whom it may concern" dated 18 February 2014 at B6, page 1. He said that he wants his "mummy", brother and sister and his step dad to be a happy family. He misses his mummy very much. He used to cry a lot when he was young because he missed her so much. He misses his brother, Simba. The holiday was not enough time for them to spend with each other. He stated that the last weekend that he might have stayed with his father would have occurred in mid 2012.
61. She said he had tried to involve his father but he only asked for the reasons why she was choosing a specific school. He was supposed to come back with regard to secondary schools, but he did not come back. In fact his father never telephoned her once.
62. The last time she spoke to him was after June 2014. That was when she tried to obtain a statement from him. Her solicitor at the time indicated that a statement would be beneficial as to financial and emotional support. An email was sent to him setting out the things that should be contained in his affidavit. The content of the affidavit is 'all true'.
63. In re-examination he was asked about any involvement between her sister, her husband and the claimant. She said that they attend to his day to day issues. She however told her to attend the parents' meeting at the school. They did not take decisions independently. They only attend to day to day activities.

Submissions

64. Mr Kotas adopted the reasons for refusal dated 10 July 2014.
65. He accepted that the claimant did not live with either his father or mother. As regards sole responsibility, he referred to the father's involvement noting that "we are stuck with the interview." He also

referred to the summary at the end of the document. The questions are open and simple.

66. The sponsor's claim that he used to visit his father prior to 2012 constitutes a different interpretation of the interview.
67. Insofar as support by the father is concerned, again, there is nothing to suggest as claimed by the sponsor that this is only historical. Nor has his father completely abdicated responsibility. He submitted that the uncle's witness statement at A20 in which he contends that the claimant's father has not visited him more than nine times is "extraordinary."
68. He submitted that 'the stakes in this case are high'. There has been the temptation to embellish the evidence. To assert that they have only been nine visits, each for less than 20 minutes, is not credible.
69. At A22, the statement of the claimant's aunt that the father has never been present at all in Brandon's life and that on several occasions he would promise to collect the child for weekend visits but never showed up or called to explain why he did not come, is an attempt to tailor their evidence to suit the case.
70. He submitted that "perhaps the father has been a little more involved than suggested". Moreover, the father does not live far away. The father's circumstances "chimes with the interview evidence".
71. Insofar as Article 8 outside the rules is concerned, he referred to SS (Congo). There are no compelling circumstances outside the rules. In any event, any interference would be proportionate and in accordance with effective immigration control.
72. On behalf of the appellant, Mr Singarajah referred to the reasons for refusal. The issues concerns what contact and relationship exists between the father and the claimant; if his mother does have sole responsibility, is this for a substantial period? Finally, there is the issue as to financial support.
73. Mr Singarajah referred to extracts from TD (paragraph 297(i)(e)): "Sole Responsibility" Yemen [2006] UKAIT 00049. "Sole responsibility" cannot sensibly be read in an absolute or literal way. The IAT had accepted that a parent who has settled in the UK may retain "sole responsibility" for a child where the day to day care or responsibility for that child is necessarily undertaken by a relative abroad -
74. He referred to [11] in TD where the facts were that the appellant saw her father who lived in Jamaica every week. He gave her money on a weekly basis. The appellant's aunt and uncle also contributed financially to support her. In addition, her mother also sent money each week from the UK to the appellant's grandmother. Those circumstances fell short of establishing that the appellant's mother had sole responsibility for her.
75. Mr Singarajah submitted that there was no evidence that the uncle or aunt supplied financial support to the claimant. Nor was there evidence that the father had visited or supplied financial support on a regular basis.

Nor did his father become involved in decision making in relation to the colleges or schools that the claimant attended. The claimant's mother has been in contact with the claimant on a regular basis, sometimes 3-4 times a week.

76. The primary case is that even if the father did participate in any decisions or that he contributed money, it was to such a limited extent. He referred to the decision in Sloley v ECO, Kingston [1973] Imm AR 54 where the appellant's father lived nearby but was virtually absent from her life.
77. He submitted that the claimant's mother has had sole financial responsibility. Even assuming that there had been shared responsibility, since 2012 any such responsibility ceased. He referred to the evidence of the claimant's uncle and aunt at A20 and 21, at pages 3-5 of B6. He submitted that as far as major decisions were concerned, the oral evidence established that these were ultimately made by the mother.
78. He submitted from TD that although financial support, particularly sole financial support of a child is relevant as an indicator of obligations stemming from an exercise of "responsibility" by a parent, it cannot be conclusive. The evidence showed that between November 2014 and February 2015, his mother had contributed \$4957.51. There is also evidence indicating that his mother exercised substantially more responsibility with regard to financial support. He accepted that even exclusive financial support will not necessarily mean that the person providing it has "sole responsibility for the child." It is a factor but no more than that.
79. He submitted that on any view the father did not meet the threshold relating to "two parent cases."
80. He referred to [49] in TD. The father's involvement is at best "*de minimis*". The mother's involvement has been such that she has sole responsibility, apart from the day to day care administered by the uncle and aunt. She has exercised continuing responsibility and control. She has exercised sole decision making authority over the claimant. He referred to pages 18, 20-21 of Bundle A, containing the evidence of the mother and the claimant's uncle and aunt. There is a letter from the school at A26, confirming that the claimant's mother pays his school fees. At pages 27-51 the receipts relating to money transfers from March 2015 until December 2015 have been produced.
81. Mr Singarajah criticised the interview of the uncle as 'being incomplete'. Nor is it evident that it was contemporaneous. There has been no confirmation that 'it is correct'. Questions were put without affording any opportunity to provide a further explanation. Relevant questions following from a vague answer were not asked.
82. The statements at A 20-21 constitute the responses to that. He submitted that the case law requires that in an interview for immigration purposes there is a common law duty of fairness that any issues subsequently raised should be put to the interviewee for reply.

Accordingly the interviewer should have obtained proper information as to the contact by the father on weekends. Questions should have been asked as to the date when the last weekend contact took place.

83. Moreover, the comments section constituted a “generous opinion based on apparent answers to questions.
84. With regard to Article 8, the threshold is lower. He referred to SS (Congo) at [29]. Leave to enter outside the rules can only take place in “exceptional circumstances.” Since 2012 there must be something that is not contained in the adult relationship provisions under the rules.
85. Mr Singarajah accordingly sought to uphold the decision of the First-tier Tribunal on Article 8 grounds as well.

Assessment

86. The meaning of “sole responsibility” has given rise to a body of case law, including cases decided before the the Court of Appeal. As already noted, in TD (paragraph 297(i)(e)): “Sole Responsibility” Yemen [2006] UKAIT 00049, the Tribunal examined the case law relating to the notion of “sole responsibility” in considerable detail. It concluded that “sole responsibility” is a factual matter to be decided upon all the evidence. Where one parent is not involved in the child's upbringing because he or she had abandoned or abdicated responsibility, the issue may arise between the remaining parent and others who have day-to-day care of the child abroad. The test is whether the parent has continuing control and direction over the child's upbringing, including making all the important decisions in the child's life. However, where both parents are involved in a child's upbringing, it would be exceptional that one of them will have “sole responsibility”.
87. The Tribunal found at [30] that the Court of Appeal saw “sole responsibility” as a practical rather than an exclusively legal exercise of “control” by the UK based parent over the child's upbringing, including whether what is done by the carer is done “under the direction” of their parent.
88. The Tribunal concluded at [46] that in order to conclude that the UK based parent had “sole responsibility” for the child, it would be necessary to show that the parent abroad had abdicated any responsibility for the child and was merely acting at the direction of the UK based parent who was otherwise totally uninvolved in a child's upbringing.
89. Cases in the Court of Appeal made it clear that the touchstone of “sole responsibility” is the continuing control and direction by the parent in the UK in respect of “the important decisions” about the child's upbringing. If the UK based parent has allowed the carer abroad to make some important decisions in the child's upbringing, then it may readily be said that the responsibility for the child has become “shared”- [50].
90. The Tribunal set out the proper approach to questions of sole responsibility under this rule at [52]. It emphasised that the term

“responsibility” in the Immigration Rules should not be understood as a theoretical or legal obligation, but rather as a practical one which, in each case, looked to who in fact is exercising responsibility for the child. That responsibility may have been for a short duration in that the present arrangements may have begun quite recently. Wherever the parents are, if both parents are involved in the upbringing of the child, it would be exceptional that one of them would have sole responsibility.

91. At [52(ix)] the Tribunal stated that the test is not whether anyone else has day to day responsibility, but whether the parent has continuing control and direction of the child's upbringing, including making all the important decisions in the child's life. If not, responsibility is shared and so not “sole”.
92. I have considered Mr Kotas's submissions, and in particular those relying on the interview that the father had not been shown to have abdicated responsibility. I have had regard to his submission that the temptation in such a case is to “embellish” the evidence. He contended that the claim that his father has only had about nine visits with him up until 2012 is not credible.
93. Mr Kotas cross examined the mother regarding the asserted limited contact that the claimant has had with his father. She contended however that the contents of the father's affidavit are correct and truthful. He has never lived with his father. Moreover, it was she who paid for his education in total. For the whole of the first 14 years when the claimant has been at school, he has contributed no more than about \$1000. Ms Mountford was not challenged on these contentions.
94. I have had regard to the interview at F1 in the light of Mr Kotas's submission that there was nothing to suggest from the transcript that support from the claimant's father is only historical.
95. The document at F1 does not appear to be a complete transcript of the interview with the maternal uncle. Under the heading “Introduction” at the outset, it is stated that the interviewer has been asked by the visa section to come and interview Brandon Ngonidzashe Maruta, i.e., the claimant. However, the claimant himself was never interviewed despite the fact that they had been asked to interview the claimant.
96. Instead, there is a short transcript of the interview between the visa official and Mr Lewis Mountford, the maternal uncle.
97. It does not appear that the interview was recorded. Nor is it evident that all of the questions and the answers were fully recorded.
98. The uncle was asked on one occasion whether the claimant visits his father. The reply was “yes, he stays with him during some weekends.” However, no attempt was made to ask any further questions to establish more clearly which period the uncle was referring to, or the frequency of such weekend contact.

99. In the “comment/summary” at the end of the interview, the interviewer confirms that the appellant lived at the address at Harare. They did not speak to him as he was still at school but spoke to the maternal uncle. However, there is no explanation as to why they did not wait to speak to him, or arrange a time where the claimant would be available.
100. In the comment/summary section at the end of the interview it is stated that the claimant has lived at that address ever since his mother left in 2003 and that his father has been supporting him. That is an inaccurate summary of the questions recorded in the transcript where the uncle said that he helps support his son “after we press him to do so.” However, again, there was no attempt to extract any further detail to establish the occasions when he was “pressed to do so.” Nor is the frequency or the period identified when this occurred.
101. Finally, in the summary it is stated that the father has jointly with the mother decided the schools that the claimant attended. He stated that both parents render financial support to him and jointly make decisions on his behalf, like on schools. It is stated in the summary that he spends weekends with the father and seems to have a cordial relationship with his father since he regularly visits him.
102. I have had regard to the evidence of Ms Mountford regarding the payment of school fees. She has not only asserted that it is she who has paid for all his schooling over the years, apart from a few occasions when the father made some contribution after he was “pressed to do so,” but she has produced substantial evidence by way of money transfers indicating that it was she who had been responsible for his support and the payment of his school fees. Moreover, there is a letter from the Churchill School dated 2 December 2015 from the Deputy Head confirming that the claimant was a student at that school between 2010 and 2013. His school fees were being paid by his mother.
103. I have had regard to a statement from Mr Lewis Mountford dated 17 February 2015. He states that the claimant's father is not supportive at all financially or emotionally. It has mainly been his mother who provided for his welfare. That is at variance with the summary of his interview.
104. I have taken into account Mr Kotas's submission that the stakes are high and that the Tribunal should be aware of the possibility that their statements may have been tailored to assist the claimant.
105. However, having seen and heard Ms Mountford giving evidence, I am satisfied that her account is essentially straightforward and credible. I accept from Ms Mountford's evidence that it was in fact she who attempted over the years to persuade the father to show an interest in his son.
106. Having regard to the evidence as a whole, including the problems identified regarding the interview and its summary, I accept her evidence that it is she who has made important decisions relating to her son's schooling. Although this was on occasion discussed with the father, the

actual decision was made by her. His input into any decision was limited. Nor is there any evidence that the father has in any way participated in the day to day care of the claimant. There is no evidence that he has attended any parents' meetings at the claimant's school.

107. Nor is there any evidence that he has even discussed or taken part in any other important decisions, such as those made in relation to the claimant's health needs and the like.
108. I find on the evidence and thus accept that the claimant's father has his own family whom he supports. This appears to be a fairly large family, the unhelpful estimate being that he has between 13 and 31 children.
109. I have also had regard to her unchallenged evidence that she speaks to the claimant regularly, which she described as daily, or at least three times a week. She has also explained why after her leave to remain was granted after she appealed, she was not in a position to apply immediately for her son to join her in the UK. She was in a financial crisis. She had assisted her mother who had cancer up until she died in 2007. Her mother had gone to South Africa for treatment and had attended at a private hospital in Stanton City. When she went to the funeral she left her own son, Simba, in the UK as she could not afford two tickets at the time.
110. Moreover, she has also supported her sister and has provided her with funds in order to obtain antiretroviral therapy.
111. As a result, it was only in December 2013 that the application was made initially for a visit visa. That was denied. Once she obtained her indefinite leave to remain, an application was made for her son to join her.
112. Having regard to the evidence as a whole, including the documentary evidence produced in support of the sponsor's assertions regarding support and decision making up until the present, I find that it is she who has made all the important decisions relating to the claimant's welfare over the years. She has given a proper explanation as to why it was only relatively recently that the claimant has made his application to join his mother in the UK.
113. I have had regard to Mr Kotas's submission that there has been a temptation to embellish the evidence. I have no reason to suppose that the evidence of the sponsor and the uncle relating to the commitment and contact between the father and his son is anything other than truthful and correct.
114. I am accordingly satisfied that the claimant has shown on the balance of probabilities that the requirements of paragraph 297(1)(e) of the Immigration Rules have been satisfied and that accordingly his mother, Ms Sheillett Mountford, has had sole responsibility for his upbringing. It is accepted that the other requirements under paragraph 297, and in particular with regard to maintenance and accommodation, are satisfied.
115. I accordingly dismiss the appeal of the entry clearance office.

Notice of Decision

Having set aside the decision of the First-tier Tribunal, I re-make the decision confirming the First-tier Tribunal's decision allowing the claimant's appeal under the Immigration Rules.

No anonymity direction is made.

Signed

Date 6 February 2016

Deputy Upper Tribunal Judge Mailer