



Upper Tribunal

(Immigration and Asylum Chamber)

Appeal Number: HU/10461/2015

THE IMMIGRATION ACTS

Heard at Bradford House

On 22 February 2017

Decision & Reasons Promulgated

On 26 June 2017

Before

DEPUTY UPPER TRIBUNAL JUDGE BAGRAL

Between

FRANCISCA OBIELLEY COMMEY

(ANONYMITY DIRECTION NOT MADE)

Appella
nt

and

THE ENTRY CLEARANCE OFFICER - UKVS SHEFFIELD

Respondent

Representation:

For the Appellant: Let Dat Baig Solicitors

For the Respondent: Ms R Pettersen, Home Office Presenting Officer

DECISION AND REASONS

1. I have considered whether any parties require the protection of an anonymity direction. No anonymity direction was made previously in respect of this Appellant. Having considered all the circumstances and evidence, I do not consider it necessary to make an anonymity direction.

2. This is an appeal by the Appellant against a decision of First-tier Tribunal Judge I F Taylor (hereafter “the Judge”), promulgated on 18 July 2016, which dismissed the Appellant’s appeal and held that the Respondent’s decision to refuse her entry clearance to join her father (hereafter “the sponsor”) present and settled in the UK was proportionate and not unlawful under Article 8 of the European Convention on Human Rights.

Background

3. The Appellant is a citizen of Ghana, born on 29 February 2000.
4. On 26 June 2015, the Appellant applied for entry clearance to join the sponsor in the UK who it was claimed had sole responsibility for her. That application was refused on 30 September 2015. The Appellant duly appealed to the First-tier Tribunal.

The Judge’s Decision

5. The appeal was listed before the Judge as a paper hearing. Accordingly, the Judge proceeded to consider the evidence filed by the parties. The Judge directed himself appropriately. He noted the issues under the Immigration Rules was confined to whether the sponsor had sole responsibility for the Appellant, or whether there were serious and compelling family or other considerations which made her exclusion from the UK undesirable by virtue of paragraph 297(i) (e) and (f) respectively. While the Judge accepted the Appellant’s financial needs were met by the sponsor, he did not accept the sponsor had sole responsibility. The Judge noted the Appellant’s natural mother resided in Ghana and concluded that “... *it would be surprising if she did not take some responsibility for her own child ...*” [21]. Accordingly, the Judge was not satisfied that the mother had abdicated responsibility.
6. Further, the Judge found the evidence of the Appellant’s aunt (with whom the Appellant resided) lacked particulars or details, and was thus not satisfied that she had no responsibility for the Appellant beyond day-to-day care. Further still, the Judge was not satisfied that there were serious and compelling family or other considerations which made the Appellant’s exclusion undesirable. The Judge noted that there was no evidence of any mental or physical limitations to the aunt continuing to care for the Appellant. Finally, the Judge concluded that while a refusal of entry clearance interfered with the Appellant’s family and private life, he concluded that the interference was proportionate. The Judge noted there was no evidence the Appellant had not been properly cared for and noted that she had been “*very well looked after by her aunt for over ten years and there is no reason to suggest that that cannot continue*”. The Judge noted the family had been separated because of the choices made by the sponsor and that family life could be maintained through visits and other means of communication. Accordingly, the Judge dismissed the appeal.
7. The Appellant lodged grounds of appeal and on 24 November 2016, First Tier Tribunal Judge Keane granted permission to appeal.

The Hearing

8. I heard brief submissions from both representatives at the end of which I reserved my decision.

Decision on Error of Law

9. I am not satisfied that the Judge erred in law for the following reasons.
10. The Appellant's representative referred to two documents issued by the Judicial Service of Ghana of July 2014, which purported to show the sponsor had full parental responsibility for the Appellant. It was argued that this evidence had either not been considered by the Judge or that he failed to give sufficient weight to it. I am satisfied that there is no merit in these submissions. First, while the arguments before me centred around the question of weight, permission to appeal was not granted on the basis that the Judge failed to give sufficient weight to the documentary evidence. Even if it had been, it was entirely, in the absence of irrationality (which is not alleged here), a matter for the Judge as to what weight to attribute to the evidence before him.
11. Second, the Judge did consider a letter from the Judicial Service in Ghana at [11] and factored that evidence into his assessment. The Appellant's representative was unable to confirm that a second document from the Judicial Service adduced before me, was in fact placed before the Judge. A copy of that document in so far as I could discern did not appear in the Tribunal's file. I am satisfied that the Judge considered the evidence that was before him and did so appropriately in the context of all the evidence that was before him.
12. Further, while I agree with Ms Pettersen that the Judge's findings could have been clearer, I am satisfied that upon a holistic reading of his decision that his findings are not so contradictory such that it renders his decision unsustainable. While the Judge accepted the Appellant was cared for by her aunt and that the sponsor had "*exercised some and possibly the majority of parental responsibility*", it is clear that the Judge did not accept that this amounted to sole responsibility. The Judge gave several reasons for discounting the evidence noting that the assertions made by the sponsor, mother and aunt, that the sponsor had sole responsibility lacked details or particulars. The Judge noted in particular that "*...there are many assertions made but little, if any, examples of what is being undertaken by the sponsor that could amount to sole responsibility*" [23]. It was this lack of particulars that led the Judge to conclude at [21] that, "*I am not satisfied that she [the mother] has abdicated responsibility for the appellant.*" These findings are, in my judgement, sufficiently clear and supported by the evidenced.
13. While no submissions were made at the hearing on the remaining grounds of appeal, I have considered them and conclude that they are of no substance. In my judgement, the Appellant's grounds, such as they are, amount to a disagreement with the Judge's factual conclusions and his

appraisal and evaluation of the evidence, none of which give rise to an error of law.

14. In summary, I am satisfied that the Judge's conclusion when read as a whole sets out findings that were sustainable, sufficiently detailed and based on cogent reasoning.

Conclusion

15. I therefore find that no errors of law have been established and that the Judge's decision should stand.

Decision

16. The Appellant's appeal is dismissed.

Signed

Date 16 May 2017

Deputy Upper Tribunal Judge Bagral