



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

Appeal Number: EA/02616/2016

THE IMMIGRATION ACTS

Heard at Birmingham CJC

Decision & Reasons

On 15 October 2018

Promulgated

On 6 November 2018

Before

UPPER TRIBUNAL JUDGE ALLEN

Between

**MEGGAN [O]
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Acharya of Archaryas Solicitors

For the Respondent: Mr Mills, Home Office Presenting Officer

DECISION AND REASONS

1. This is the appeal of Meggan Naddine O'Brien against a decision refusing her application for a derivative right to reside as the primary carer of an EEA national under Regulation 15A of the Immigration (European Economic Area) Regulations of 2006. The refusal date is 1 December 2015. Little needs to be said about the decision apart from one or two matters in light of the very helpful submissions I received today from Mr Acharya on behalf of Ms O'Brien and Mr Mills on behalf of the Secretary of State.

2. The judge accepted that Ms O'Brien is her daughter B's primary carer, so that disposed of one of the relevant criteria in Regulation 15A. The remaining issue was the matter of whether she would be forced to leave the United Kingdom as there was no alternative care option available to her, and this essentially revolved around the evidence concerning her father. The evidence was that he had not been on the scene for some time. The judge did not take into account documentary evidence from B herself or from her friends also about this, but essentially based his conclusion refusing the appeal on the fact that there was a suggestion that the father would have to have been involved in her life when B's British passport was obtained in 2014 (I think it is right that it was 2014 and not 2015 as the judge said).
3. That, Mr Mills accepts on behalf of the respondent today, is wrong. Once she had attained the age of 10 as a British citizen she would be able to get a passport without any involvement of her father and the key reason therefore in the judge's refusal falls away in light of the supporting evidence which has been referred to and looked at about the absence of the father from B's life. It seems clear to me and I think it is common ground that the requirements of Regulation 15A(4) are indeed met as a consequence and in substitution for the judge's decision dismissing the appeal is substituted a decision allowing the appeal under Regulation 15A.
4. No anonymity direction is made.



Signed

Date

06/11/2018

Upper Tribunal Judge Allen