



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

HU/08568/2017

THE IMMIGRATION ACTS

**Heard at Glasgow
on 15 November 2018**

**Decision & Reasons
Promulgated
On 21 November 2018**

Before

UPPER TRIBUNAL JUDGE MACLEMAN

Between

D T CHIZANGA

Appellant

and

ENTRY CLEARANCE OFFICER, Pretoria

Respondent

For the Appellant: Mr C McGinley, of Gray & Co, Solicitors
For the Respondent: Mrs M O'Brien, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. The appellant is a citizen of Zimbabwe, born on 14 April 1999. He sought entry clearance to settle in the UK under paragraph 297 of the immigration rules, to join his mother. The ECO refused his application on 30 May 2017, and that decision was confirmed on review by an Entry Clearance Manager on 25 January 2018. FtT Judge Boyle dismissed the appellant's appeal by a decision promulgated on 28 June 2018. The appellant appealed to the UT.
2. Representatives agreed that the case fell to be resolved as follows.

3. The respondent accepted at the hearing in the FtT that the sponsor is the appellant's mother. The judge accepted that his father died in 2014. At that stage, the case came within sub-paragraph 297 (i) (d), one parent being present and settled in the UK and the other being dead. It was no longer a case under sub-paragraph (i) (e), and did not turn on "sole responsibility".
4. The evidence was that the appellant in terms of sub-paragraph 297 (iii) was not "leading an independent life" and had not "formed an independent family unit". His case met the requirements of paragraph 297.
5. The appeal was not under the rules, but available on human rights grounds only. However, this area of the rules being broadly "human rights compliant", it followed that the appeal should have been allowed.
6. The decision of the First-tier Tribunal is set aside. The appeal, as originally brought to the FtT, is allowed.
7. No anonymity direction has been requested or made.

A handwritten signature in black ink, reading "Hugh Macleman". The signature is written in a cursive style with a large, stylized initial 'H'.

15 November 2018
Upper Tribunal Judge Macleman