



**Upper Tribunal  
(Immigration and Asylum Chamber)  
HU/12214/2015**

**Appeal Number:**

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 30 November 2017**

**Decision & Reasons  
Promulgated  
On 4 January 2018**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE NORTON-TAYLOR**

**Between**

**SHAREEF SIDIQ ABDUL JABBAAR  
(ANONYMITY DIRECTION NOT MADE)**

Appellant

**and**

**ENTRY CLEARANCE OFFICER, GEORGETOWN, GUYANA**

Respondent

**Representation:**

For the Appellant: No appearance

For the Respondent: Mr S Walker, Senior Home Office Presenting Officer

**DECISION AND REASONS**

1. This is a challenge by the Appellant to the decision of First-tier Tribunal Judge Moore (the judge), promulgated on 19 May 2017, in which he dismissed his appeal against the Respondent's refusal of entry clearance issued on 30 December 2015.
2. The Appellant, who was a minor at the time the application for entry clearance was made, sought leave to enter the United Kingdom as the child of his mother, a Guyanan national with indefinite leave to remain in the United Kingdom (the sponsor).

### **The judge's decision**

3. The judge sets out his findings at paragraphs 20 to 28 of his decision. In essence, whilst he accepted that the sponsor had provided financial support to the Appellant over the course of a number of years, he was not satisfied that she had exercised sole responsibility for the Appellant. In addition the judge concluded that Article 8 (insofar as it relied upon matters not contained within the framework of the Immigration Rules) could not avail the Appellant.

### **The grounds of appeal and grant of permission**

4. The grounds assert that the judge failed to deal adequately with the issue of financial support and the significance thereof, the contents of a letter from the Appellant's school, evidence of communications between the Appellant and the sponsor, a letter from the Appellant's grandparents, and finally the approach taken in respect of Article 8.
5. Permission to appeal was granted by First-tier Tribunal Judge Hollingworth on 24 August 2017.

### **The hearing before me**

6. Prior to the hearing the Appellant's representatives sent a fax to the Upper Tribunal (received on 27 November 2017) confirming that the Appellant would not be represented at the hearing (although the solicitors continued to act for him). A bundle submitted under cover of a letter dated 22 November 2017 was to be relied upon. The bundle contained evidence before the First-tier Judge together with additional materials. I considered Rules 2 and 38 of the Upper Tribunal Procedure Rules and concluded that I could fairly proceed in the Appellant's absence.
7. For the Respondent Mr Walker confirmed that he continued to oppose the appeal. He referred to the various findings made by the judge and submitted that given the lack of relevant evidence on material issues, the findings made by the judge were open to him. It was submitted that there were no material errors of law.

### **Decision on Error of Law**

8. I conclude that there are no material errors of law in the judge's decision. My reasons for this are as follows.
9. First, it is right that the judge found that the sponsor had in fact been providing financial support to the Appellant over the course of time (paragraph 20). This was clearly a relevant factor in favour of the

Appellant's claim. However as the judge rightly points out, financial responsibility does not equate to sole responsibility (see for example TD (Yemen) [2006] UKAIT 46).

10. Second, the judge took account of the letter from the college. This letter did state that the Appellant's grandfather (with whom he had been living since 2000) had attended the school regularly, "on behalf of his mother". On the face of it this would seem to provide support to the Appellant's case that his mother was involved in his educational progress. Having said that, in my view it was open to the judge to take into account the lack of actual school progress reports or indeed any attempts by the sponsor to have obtained such more direct evidence about the Appellant's education. It might be said that the judge was being somewhat speculative as to the processes by which such evidence could have been obtained by the sponsor. However, it was of course for the Appellant to prove the issue of sole responsibility by whatever evidence could reasonably be obtained. The judge did not accept that the oral explanation for the absence of such evidence was a reasonable one. The judge was also entitled to take into account the absence of any evidence from either the Appellant's teacher or headteacher as to any direct contact with the sponsor.
11. Third, in respect of paragraph 22, I raised some concerns at the hearing about the judge's findings on the payment of school fees. When first considering this point it seemed to me that once the judge had found that financial support was being provided by the sponsor, it might seem strange that he then concluded that the she had not been paying the school fees. On reflection however, and in light of the decision as a whole, I find that the judge was entitled to take account of the absence of any specific evidence of payment of the fees. The judge acknowledges the potential difficulty in obtaining certain types of evidence, but he was entitled to note that the letter from the school said nothing about payment of fees by any particular person in general. This was another example of the absence of relevant evidence that could reasonably have been obtained in one form or another.
12. Fourth, in respect of paragraph 23 I accept that what is said therein does not appear to sit comfortably with the judge's findings in paragraph 20 as regards the provision of financial support over the course of time. If I thought that the reasoning contained in paragraph 23 was of particular importance or that other aspects of the reasoning were inadequate then I would regard this aspect of the decision as being potentially unsustainable. However having regard to the decision as a whole the contents of this paragraph are not material to the judge's overall conclusions. I also note the fact that there was no evidence of the payment of any medical fees, a matter which the judge was entitled to take cognisance of.
13. Fifth, as regards the alleged conversion of the Appellant from Islam to Christianity, the judge was fully entitled to take into account the absence of any evidence from the church to confirm the conversion and/or attendance, and he was also entitled to reject the explanation that the

Appellant could not attend for the last two years because of his grandparents' ill-health.

14. Sixth, the issue of contact between the Appellant and the sponsor dealt with in paragraph 25. On the basis of the evidence before him the judge was entitled to conclude that the evidence of direct contact and indirect communications was, as he described it, "meagre and insignificant". Only two visits by the sponsor to Guyana had occurred over the course of some sixteen years, and the judge was entitled to find that one of those was prompted by the sponsor's mother being terminally ill. In respect of communications, there was very limited evidence (contained in the Appellant's bundle, which I have seen) with social media correspondence covering a period of only two months.
15. Seventh, in respect of photographs, the judge was entitled to take into account the absence of such evidence insofar as it might have gone to show a continuing and significant interest in the Appellant's wellbeing (as that in turn might have supported a claim of sole responsibility).
16. Eighth, in respect of a letter from the grandparents (paragraph 27), I accept that the judge has not grappled with its contents in a detailed manner, but having read it for myself there was little by way of detailed evidence contained therein. The judge was entitled to conclude that taking all matters into account the Appellant had failed to show that the sponsor had exercised *sole* responsibility for him over the course of time (whether that period of time was extended, as had effectively been claimed throughout the application and appellate process) or whether this scenario had arisen relatively recently. Whilst not stated expressly, it may well be that the judge was concluding that responsibility had been *shared* between the sponsor and the grandparents. In any event the essential conclusion was open to the judge.
17. Ninth, the judge has dealt adequately with the Article 8 issue insofar as that related to matters not covered by paragraph 297 of the Rules.
18. In light of the above the decision of the First-tier Tribunal stands.

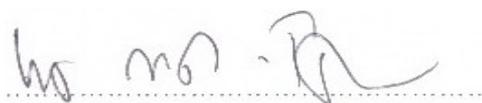
### **Notice of Decision**

**There are no material errors of law in the decision of the First-tier Tribunal.**

**The decision of the First-tier Tribunal stands.**

No anonymity direction is made.

Signed  
2017



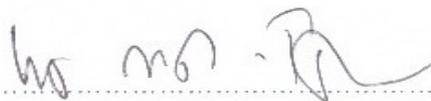
Date: 21 December

Deputy Upper Tribunal Judge Norton-Taylor

**TO THE RESPONDENT**

**FEE AWARD**

I have dismissed the appeal and therefore there can be no fee award.

Signed  .....

Date: 21 December 2017

Deputy Upper Tribunal Judge Norton-Taylor