



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: EA/02357/2019 [P]

**THE IMMIGRATION ACTS**

Heard at Field House  
On 22 October 2020

Decision & Reasons Promulgated  
On 28 October 2020

Before

UPPER TRIBUNAL JUDGE GLEESON

Between

CYNTHIA HAYFORD  
[NO ANONYMITY ORDER]

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

**DECISION AND REASONS**

1. The appellant appeals with permission against the decision of the First-tier Tribunal refusing her an EEA family permit to join her mother, an Italian national, in the United Kingdom pursuant to Regulation 7 of the Immigration (European Economic Area) Regulations 2016. The appellant is a citizen of Ghana.

**Background**

2. The Entry Clearance Officer accepted that the sponsor was exercising Treaty rights in the United Kingdom but not that the appellant could show adult financial dependency on the sponsor.
3. The Entry Clearance Officer refused entry clearance on the basis that the appellant, who was over 21, had not demonstrated that she was dependent on her mother, the sponsor in the United Kingdom, for the majority of her expenses. The supporting

evidence was considered to be inadequate and there was no breakdown of her expenses and how the sponsor's funding, when sent, discharged them.

4. The decision was reviewed by an Entry Clearance Manager who upheld the Entry Clearance Officer's decision.

### **First-tier Tribunal decision**

5. The appeal was considered by First-tier Judge Clarke at a hearing on 14 January 2020. The respondent did not arrange representation, but the appellant was represented.
6. The sponsor gave oral evidence at the hearing. The sponsor said the appellant's father, who still lived in Ghana, had died 5 years ago, but no death certificate was produced or other evidence to validate that assertion.
7. The sponsor asserted, again without any corroborative evidence, that the appellant's father took no part in her care before he died (when she would have been 16 years old) and that her own mother, the appellant's maternal grandmother, had brought her up since the sponsor came to the United Kingdom when the appellant was about 9 or 10 years old. There was only recent Western Union evidence of money transfers.
8. The appellant relied on a letter from the Gospel Church Assembly, recording her account to them that she had not worked for 5 years, instead completing her nurse's training, and that she was maintained by the sponsor.
9. The Pastor appeared to have no direct knowledge of these matters and relied on what the appellant told him. There was evidence that in the past the sponsor had paid her school fees, but no evidence as to who paid for her tertiary education as a nurse.
10. The First-tier Judge did not accept the evidence and was not satisfied that the appellant had demonstrated dependency by providing cogent, reliable, independent evidence.
11. The appeal was dismissed.

### **Permission to appeal**

12. Permission to appeal was granted by First-tier Judge O'Brien on the basis that there was an arguable error of fact at the level of an error of law in that the judge ignored relevant evidence, mischaracterised evidence, failed to undertake a rounded assessment of the evidence and erred as to the appellant's place of residence. Specifically, the judge appeared to suggest at [14] that it was for the appellant to prove that she was not in employment.

### **Rule 24 Reply**

13. There was no Rule 24 reply.

### **Further directions**

14. On 23 June 2020, the Upper Tribunal sent out triage directions made by Upper Tribunal Judge Lindsley in the light of the COVID-19 pandemic. The appellant was

invited, if so advised, to submit further submissions on the error of law issue, with a right for the respondent to reply, if triage submissions were made, and a further right of reply for the appellant thereafter.

15. Both parties were directed to say whether they considered that a further hearing, oral or remote, was required. In default, the appeal would be considered on the papers and triage submissions, if any.

### **Submissions received**

16. Triage submissions were received from the appellant. The appellant incorporated her grounds of appeal by reference in the triage submissions, and emphasised that points on which the judge wished to rely should have been put to the appellant's witness in cross-examination. No particular point is specified: the allegation is generic.
17. The appellant further submitted that more weight should have been given to her pastor's letter, since he was a person in authority. She argued that 'there was certainly no reasons to discredit or undermine it'.
18. In relation to dependence, the appellant argued that 'a fair and reasonable approach, which was omitted by the Immigration Judge, should have been to make that historic support/dependence a starting point, by acknowledging its obvious reasonable weight of congruence and consistency with the appellant's claim'.
19. The respondent did not reply.
20. That is the basis on which this appeal came before the Upper Tribunal.

### **Analysis**

21. I am satisfied that it is appropriate to make a decision on whether the First-tier Tribunal decision contains a material error of law on the basis of the decisions and submissions before me. The appellant has raised no objection and the respondent continues to show no interest in taking part in these proceedings.
22. The grounds of appeal are really no more than a disagreement with the findings of fact and credibility by the First-tier Judge. In relation to the evidence of the sponsor, her mother, the First-tier Judge is the fact-finder and the appellant has not identified any point relied upon which was not put to the sponsor in evidence.
23. As regards the pastor's letter, I have examined it with some difficulty. It is barely legible on the copy in the Tribunal file. It appears not to have been written for these proceedings but to be a reference for possible employment. The letter is dated 13 or 18 February 2019 (it is not quite clear which): I cite it in full:

"TO WHOM IT MAY CONCERN

I am Rev. Samuel Opoku Marfo the head pastor of the above-named church. Cynthia Hayford has been a member of this church for 5 years and she is in good standing. I know she has completed nursing training but is unemployed. Her mother, Mrs Comfort Konadu, has been taking care of her financial needs before and after her completion of school. Throughout this period, she does voluntary work in the church without any payment. Cynthia is trustworthy, hardworking and intelligent.

I recommend her for any opportunity she desires to apply for. Kindly extend to her any assistance she may be in need of. Thank you.”

24. The undertaking of voluntary work at a church is not necessarily incompatible with nursing training, or employment. The First-tier Judge did not err in treating that letter as a generous one, but one which was basically just a reflection of what the appellant had told the pastor. I do not find that it was given inappropriate weight or respect.
25. There is also a character reference from the appellant’s head teacher at the Army Basic School in Kumasa, Ghana confirming that her mother paid the school fees from 2003-2005. The judge accepted that. There is another letter from the headmistress of Afua Kobi Ampem Girls’ Senior High School stating that the sponsor was the sole financier of the appellant’s studies there from 2005/2006. Again, this was accepted in the judge’s decision.
26. There is a certificate that the appellant is a ‘Registered Nurse Assistant Preventive’ dated 28 March 2018, but no evidence as to who paid for that training, which appears to fall short of a full nursing qualification.
27. As regards the Western Union evidence, the sponsor has produced receipts for a number of transfers dated 29 December 2018, 24 January 2019, 18 May 2019, 17 June 2019, 18 September 2019, and 19 September 2019. The payments range between £50 and £149.60.
28. The application for a Regulation 7 family permit was made on 1 March 2019, so it is right to say that two of these payments predated the application. However, they are not listed among the documents submitted with the application. Absent any indication how much the appellant’s study and living costs were, the judge was entitled to conclude that she was not satisfied that the appellant was financially dependent on the sponsor at the date of application, which is a pre-condition for an EEA family permit for an adult child.
29. There is no material error of fact or law in the decision of the First-tier Judge.
30. This appeal is dismissed.

## DECISION

31. For the foregoing reasons, my decision is as follows:

The making of the previous decision involved the making of no error on a point of law

I do not set aside the decision but order that it shall stand.

Signed *Judith AJC Gleeson*  
Upper Tribunal Judge Gleeson

Date: 22 October 2020