



IAC-AH-SAR-V1

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

Appeal Number: IA/40690/2013

**THE IMMIGRATION ACTS**

**Heard at Field House**

**Decision & Reasons**

**On 14 October 2014**

**Promulgated  
On 30 October 2014**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE DAVID TAYLOR**

**Between**

**MRS THANDIWE SIBANDA  
(ANONYMITY DIRECTION NOT MADE)**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr Y Darboe, Legal Representative

For the Respondent: Mr T Wilding, Home Office Presenting Officer

**DECISION AND REASONS**

1. The Secretary of State is the appellant to this appeal but for the sake of consistency I refer to her as the respondent and to the original appellant as such.

2. The appellant is a 36 year old citizen of Zimbabwe born on 11 July 1978. In a determination promulgated on 18 June 2014 in the First-tier Tribunal, Judge Herbert allowed her appeal against the respondent's refusal to grant her a derivative residence card under Regulation 15A of the Immigration (EEA) Regulations 2006. The basis of the application was that she is the primary carer of her 2 year old son who is a British citizen residing in the UK. The child's father is a British citizen residing in the UK but, on the evidence, Judge Herbert found [38] that "there is no credible evidence ... that the father of the child is playing any role whatsoever in his life". He found that there was ample evidence that the child's father committed domestic violence, that he has had no contact with the child and has abdicated his responsibility for him. [41]
3. In his submissions, Mr Wilding relied on paragraphs 8 and 9 of the grounds. His submissions were based entirely on those two grounds and I therefore set those grounds out in full:
  - "8. The judge finds that the father has had no contact with the child since the appellant left the family home in November 2013 [32]. However, nowhere in the determination, does it say that the father was informed of the whereabouts of his ex-partner or son.
  - "9. The determination fails to identify any efforts on the part of the appellant to satisfy the restraining order showing that the father can be facilitated to meet or contact his son, or, that he has been informed of his child's whereabouts".
4. Mr Wilding went on to say that there had been a court order against the father in light of the domestic abuse. That order, referred to at [8] prohibited contact with the appellant save as to making arrangements for contact with the child. There was no evidence as to whether the mother had attempted to involve the father in the child's life.
5. I did not call upon Mr Darboe to reply. I indicated that having read the determination and the grounds and having now heard the submissions I was satisfied that there had been no error of law in the First-tier Tribunal decision and that that decision must stand.
6. My reasons for reaching that conclusion are straightforward. The grounds which suggest that the father should have been notified of the whereabouts of the appellant and her child and/or that the appellant should have encouraged the father to contact the son are irrelevant to the requirements of Regulation 15A of the 2006 Regulations. The judge in his determination gave full and clear reasons why each part of the relevant requirements of Regulation 15A were met. There was no error of law in his approach or in his findings.

## **Notice of Decision**

7. There was no error of law in the determination of the First-tier Tribunal. That determination shall stand.
8. No application has been made for an anonymity direction, and none is made.

Deputy Upper Tribunal Judge David Taylor  
29 October 2014