



IAC-AH-DP-V1

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

Appeal Number: IA/28384/2014

**THE IMMIGRATION ACTS**

**Heard at Manchester Upper Tribunal  
On 14 July 2015**      **Decision & Reasons Promulgated  
On 11 August 2015**

**Before**

**UPPER TRIBUNAL JUDGE CLIVE LANE**

**Between**

**OLUWASEUN MAYOWA SAMSON AMOSU  
(ANONYMITY DIRECTION NOT MADE)**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: Miss R Evans, WTB Solicitors

For the Respondent: Mr McVeety, a Senior Home Office Presenting Officer

**DECISION AND REASONS**

1. The appellant, Oluwaseun Mayowa Samson Amosu, was born on 29 April 1993 and is a male citizen of Nigeria. On 27 June 2014, the respondent refused to vary his leave to remain in the United Kingdom and made the decision to remove him by way of directions under Section 47 of the Immigration, Asylum and Nationality Act 2006. He appealed to the First-tier on the papers (Judge Blair) which, in the determination promulgated on 13 October 2014 dismissed the appeal. The appellant now appeals, with permission, to the Upper Tribunal.

2. Granting permission, that Deputy Judge Norton-Taylor considered that,

“It is arguable that the First-tier Judge followed and compounded to the respondent’s error in applying the wrong provisions of the Rules to the appellant’s case. Instead of being required to provide documents under paragraph 319H-SD(a) (on the basis that the appellant was residing with his mother), the respondent and the First-tier Judge required him to provide documents under paragraph 319H(d) (on the basis that he was not). Deputy Judge Norton-Taylor also noted that there was “documentary evidence on file suggesting the appellant may in fact have been residing with his mother, as claimed ....”

Before the Upper Tribunal, Mr McVeety, for the Secretary of State, acknowledged that such evidence did exist in the form of a letter from the appellant’s university and his driving licence. Mr McVeety accepted that the appellant met the requirements as a Tier 1 (General) child residing with a parent who had been granted leave to remain under the points-based system (PBS). The appellant’s appeal against the immigration decision should, therefore, have been allowed.

**Notice of Decision**

The decision of the First-tier Tribunal which was promulgated on 13 October 2014 is set aside. I have remade the decision. The appellant’s appeal against the decision of the respondent dated 27 June 2014 is allowed.

No anonymity direction is made.

Signed

Date 4 August 2015

Upper Tribunal Judge Clive Lane