



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

Appeal Number: OA/12228/2013

**Heard at Field House
On 15 July 2014**

**Determination
Promulgated
On 28 July 2014**

Before

DEPUTY UPPER TRIBUNAL JUDGE G A BLACK

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT Appellant

And

MICHAEL JOHN ORIENTE ADAP

Respondent

Representation:

For the Appellant: Mr S Walker, Home Office Presenting Officer
For the Respondent: No appearance

DETERMINATION AND REASONS

1. This is an appeal by the Secretary of State for the Home Department, in respect of a decision made by First-tier Tribunal Judge Majid promulgated on 29 April 2014 in which he allowed the respondent's appeal granting leave to enter the UK. The respondent is Michael Adap who is 16 years of age. The matter comes before me for consideration as to whether or not there was a material error of law in the First Tier Judges' decision. The

respondent's mother/sponsor attended the hearing before me. I heard submissions and at the conclusion of the hearing I gave an extempore judgment. I found no material error of law and dismissed the appeal.

Background

2. The respondent applied to join his sister and mother in the UK. The Reasons for Refusal Letter refers to paragraph 297 with reference to (1) (e). The documentation concerning the respondent referred to him as a third born child whereas he has stated himself to be a second born child. Also of concern was the absence of any consent from his father.
3. In his determination First-tier Tribunal Judge Majid (FTJ) allowed the appeal on immigration grounds and human rights grounds. The sponsor attended the hearing but the respondent was not legally represented in the UK. The findings made in the determination are limited but essentially the FTJ found the evidence of the sponsor and the respondent's sister to be credible [12] and he also took into account the affidavit of the sponsor [10], and a declaration made by the respondent's father [12].
4. The grounds of appeal raised by the appellant were that the FTJ failed to make proper findings of fact and or reasons with reference to the immigration rules and failed to give reasons why the respondent's circumstances were not sufficiently recognised by the Rules. Permission to appeal was granted by First Tier Judge Page on the grounds that the determination was unclear in particular as to why the appeal was allowed.

Submissions

5. I heard Mr Walker's realistic and helpful submissions this morning. I have looked at the determination overall and whilst I find that the judge may not have set out his reasons as clearly as he could have, I am satisfied that he has engaged with the material issues in the appeal. The determination, it has to be said, fails to set out clearly and precisely findings, but the FTJ has made reference to the relevant Immigration Rules with reference to the Reasons for Refusal Letter.
6. I am satisfied that he engaged with the two particular concerns raised by the Secretary of State. He found on the evidence before him both written and oral, that the concerns were fully and satisfactorily addressed. There was evidence from the respondent's father consenting to him moving to the UK and the sponsor gave evidence which satisfactorily resolved a discrepancy in the records showing the respondent as the third child. There was no issue raised as to financial dependence or sole responsibility. I also take into account that the First-tier Tribunal Judge also indicated in the determination that the Home Office Presenting Officer raised no challenge to the oral or documentary evidence produced and there is certainly no reference to any challenges in any submissions. This was a matter that Mr Walker brought to my attention. I find that the

decision therefore made by the First-tier Judge was open to him that the respondent met the requirements of paragraph 297. Accordingly I find that this renders his consideration of Article 8 unnecessary. Article 8 is briefly mentioned at [19] of the determination. The bulk of the determination consists of citations and references to case law, and were it not the case that the immigration rules were met I would have found an error with regard to the Article 8 assessment.

7. Accordingly I have decided that there is **no material error of law in the judge's decision and that the determination shall stand**. The appeal is dismissed. I direct that the respondent is to be granted entry clearance forthwith upon the issue of this determination .

Signed

Dated as signed 25.7.2014

Deputy Upper Tribunal Judge G A Black

No anonymity order
No fee award

Signed

Dated as signed 25.7.2014

Deputy Upper Tribunal Judge G A Black