



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

Appeal Number: HU/19724/2018

**THE IMMIGRATION ACTS**

**Heard Remotely at Field House**

**On 26 October 2020**

**Decision & Reasons  
Promulgated**

**On 15 December 2020**

**Before**

**UPPER TRIBUNAL JUDGE PERKINS**

**Between**

**BELINDA OPPONG**

(no anonymity direction made)

Appellant

**and**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr A Swain, Counsel instructed by Londonium Solicitors

For the Respondent: Ms J Isherwood, Senior Home Office Presenting Officer

**DECISION AND REASONS**

1. This is an appeal brought with permission from Upper Tribunal Judge Martin sitting as a Judge of the First-tier Tribunal against a decision of the First-tier Tribunal dismissing the appeal of the appellant against a decision of the Secretary of State (by an Entry Clearance Officer) refusing her leave to enter the United Kingdom as the child of a person present and settled in the United Kingdom.
2. The application was made with reference to paragraph 279(i) of HC 395 but the grounds of appeal are on human rights grounds. Obviously a person who satisfies the requirements of the Rules is well on the way to showing that there is no public interest in keeping her out of the United Kingdom and there is,

generally and subject to many qualifications, a public interest in promoting a relationship between a minor child and a parent.

3. The appellant was born in June 2000. She has now achieved her majority but she was very nearly 18 when she applied for entry clearance in April 2018.
4. It is the second time that she has applied for entry clearance as the child of a person present and settled there. An earlier application was made with her elder brother and was similarly unsuccessful. An appeal against that decision was dismissed by First-tier Tribunal Judge Onoufriou in a decision promulgated on 7 February 2017.
5. Judge Martin's main reason for giving permission is:

"It is arguable that the judge erred in assessing sole responsibility by relying very heavily on an earlier determination, when the appellant had not been represented and failed to give adequate reasons for attaching little weight to the considerable volume of evidence before him that was not before the previous judge".
6. Although reference was made to the decision of First-tier Tribunal Judge Onoufriou it was not in my papers and I am embarrassed that I did not discover that in the hearing room and I am very grateful to those who assisted me by providing a copy the following day. I begin by considering Judge Onoufriou's Decision and Reasons because that is the necessary starting point.
7. Judge Onoufriou noted that there were appeals by two citizens of Ghana against a decision of the respondent in February 2015. The respondent was not satisfied that the appellants' sponsor, their mother Agnes Agyir, had had sole responsibility for their upbringing.
8. Judge Onoufriou summarised the evidence that was before him. He confirmed that the appellant was not legally represented although her sponsor and mother had come to speak for her and, after setting out suitable guidance for a lay person representing the interests of the appellant, Ms Agnes Agyir gave evidence. She said that she had had the sole care of the children including their "schooling and upkeep". She said that their biological father did not contribute anything to their upbringing at all. She spoke to her son (he is not involved in the present proceedings) nearly every day and to her daughter (the present appellant) regularly every Saturday.
9. She was cross-examined. She was shown a letter from a Ms Hagar Annan dated 15 January 2017 which, it was suggested, asserted that it was Ms Annan who was responsible for the day-to-day care of the children together with "Mr Oppong". Ms Agyir does not appear to have answered the question directly but she said that they were looking after her children in her absence and when the children were ill she would send money for medical treatment and that she had visited Ghana to see her children some four or five times since arriving in the United Kingdom in 2007.
10. She said that Hagar Annan was married to one Isaac Oppong. Ms Annan was part of Ms Agyir's extended family but she was not related to Mr Isaac Oppong.

11. There was some evidence from the children's school suggesting that their father, rather than Mr Isaac Oppong, was involved with the school on their behalf.
12. Judge Onoufriou's findings are mainly set out at paragraph 15 of the Decision. There he said that the appellants' sponsor, Ms Agyir, came to the United Kingdom in 2007 leaving behind the children then aged 9 and 7 with extended family relatives. He noted it was Ms Agyir's case that she was maintaining the children and had sole responsibility regarding their education and general welfare. The judge found there was no documentary evidence to show any funds were sent to Ghana before the date of decision. He noted there was evidence of numerous money transfers since the date of decision but he said they could not be taken into account.
13. Judge Onoufriou noted there was a letter of consent from the biological father but nothing that confirmed or even asserted that he had had nothing to do with their upbringing and maintenance.
14. It was the evidence before Judge Onoufriou that Mr Isaac Oppong was the husband of Ms Annan and was not the biological father of the appellants. Judge Onoufriou noted that, unsurprisingly, there was nothing in the DNA evidence that showed that it was Mr Isaac Oppong who attended the school rather than the biological father. Indeed he noted there was no independent evidence to show that Mr Isaac Oppong and Ms Annan were in fact married or that they lived together. The addresses on the Visa Application Form showed that Ms Annan had the same address as the appellants but on the DNA declaration forms Mr Isaac Oppong's address was clearly different.
15. The judge said that he was not satisfied that Mr Isaac Oppong was the husband of Ms Annan or that it was Mr Isaac Oppong who attended the appellants' school rather than their biological father. He regarded this as a "fundamental aspect of the case" and something with which the appellants had not dealt.
16. In summary, although Judge Onoufriou accepted that the appellant's mother was involved in her life he was not persuaded that she was *solely* responsible for the appellant. His main reason for that finding is that something from the children's school indicated they had dealings with their father and this alleged error was not explained away to his satisfaction. There was clear evidence that Mr Isaac Oppong was not the appellants' biological father but there was also quite clear evidence that he did not live with Ms Annan causing him to doubt that they were married as alleged and to doubt the evidence as a whole.
17. The application leading to the present appeal was made on 24 April 2018 and refused on 27 July 2018. The reasons for refusal are short. The Entry Clearance Officer was satisfied that the sponsor did play a part in the appellant's life. She sent her money and visited her but the Entry Clearance Officer found that the appellant had not "established your mother has had and continues to have sole responsibility for your care and upbringing".
18. The Entry Clearance Officer noted the birth certificate named Maxwell Oppong as the appellant's father and no explanation had been provided of his whereabouts or involvement in her life. Annan Hagar was identified as her "guardian" but the relationship was not explained and the Entry Clearance

Officer noted the Immigration Judge's findings and found that concerns in the previous application had not been addressed satisfactorily and the appellant had not established her case.

19. This decision was upheld on administrative review.
20. An appeal was heard by First-tier Tribunal Judge Shiner whose Decision and Reasons was promulgated on 19 August 2020. It is that decision that was challenged before me.
21. Unremarkably, given the history, Judge Shiner accepted that the sponsor has frequent contact with the appellant. He was particularly led to that conclusion by the evidence of telephone contact.
22. Nevertheless, the judge found it in the appellant's best interest to remain in Ghana where she had grown up and understood the culture.
23. At paragraph 41 of his Decision and Reasons, Judge Shiner reminded himself expressly that Judge Onoufriou's decision followed a hearing where the appellant was not represented. He noted the major reason for Judge Onoufriou's decision including letters from Ms Annan and from Isaac Oppong (not the appellant's father).
24. Judge Onoufriou was not persuaded that Maxwell Oppong was not the man who had been identified by the school as the person attending there to support the appellant. There was really nothing before the Judge Shiner that addressed that point.
25. Judge Shiner did consider the evidence that was before him. He accepted there was evidence of money being paid that "strongly supports that the appellant is beneficiary of the monies or some of it and that she lives with Ms Annan".
26. The judge looked at the invoices from the school where the appellant presently attends (not the one whose earlier correspondence may have caused difficulties) and noted that the invoice relates to the appellant but the receipt does not refer identity Ms Agyir and does not confirm that Ms Agyir paid the school invoices, merely that money due was paid. The appellant was identified as the person who paid the money.
27. The judge looked at the letter from Mallam Church but said that it was apparent from the letter that it was written to support the appeal on information from Ms Annan and he regarded that as self-supporting.
28. It is convenient here to look more carefully at that letter. It appears at page 22 in the bundle and comes from Pastor David Amoani of the Christ Apostolic Church International. It is addressed to "Madam Agnes Agyir". The letter describes the appellant's carer, Hagar Annan, as a "devoted member" at Mallam Central Assembly of the Christ Apostolic Church International. He said that Ms Annan plays an active role in the church and it came to the church's attention that Ms Annan was struggling financially and this impacted on her role in the church so the church made enquiries. The church found out that Ms Annan had five children including "your biological daughter" in the person of Belinda Oppong. Her husband had left, it was making it difficult for them and he was pleading for her to make the necessary steps to bring the appellant to

the United Kingdom. The letter is dated 19 June 2019 and is addressed to the sponsor in the United Kingdom Ms Agnes Agyir.

29. I find it surprising that the author of the letter found it necessary to explain Ms Annan's role in the church if the letter was written to someone who was closely involved in the appellant's life. She would surely know where the appellant's care attended church if, as alleged, it was an important part of her life.
30. The fourth paragraph of the letter is confusing. It states:
 

"The Church Management upon confrontation comprehended at Madam Hagar Annan is having five children including your biological daughter in the person of Belinda Oppong, making a total number of six children".
31. I can make no sense of the numbers and again I find it surprising that the author of the letter thought it appropriate to tell Ms Agyir the name of her daughter.
32. I have to disagree with the judge's synopsis to a limited extent because it does not acknowledge that it is the assertion in the letter that there was something about Ms Annan's behaviour that made the church concerned but it is clearly right that the explanation came entirely from Ms Annan and was not something the church was in any position to endorse or comment upon and the problem was lack of money following the break-up of Ms Annan's marriage. Read carefully, this really does not say very much about whether there was sole responsibility exercised by the sponsor which is what this appeal is all about.
33. Judge Shiner noted there was money transfer to the appellant from her brother Christian Oppong and this did not illuminate the issue of sole responsibility.
34. The judge then considered a letter from Dr Edusa saying the sponsor settled the medical bills for the appellant. The judge was surprised that that was not before the first Tribunal and directed himself to "treat with circumspection" a letter that could have been produced earlier. However, this is a letter which on the face of it confirms that the sponsor has been involved in the appellant's life. It says that the appellant has reported occasionally for treatment and that Agnes Agyir pays the bills. This is evidence that Agnes Agyir is involved in the life of the child which has never been doubted as far I can see. It is not evidence that she was solely responsible, merely that from the vantage point of a job in the United Kingdom she picked up the medical bills.
35. The judge then looked at the letter from the most recent school where the appellant attended. This is at page 19 of the bundle and comes from the Methodist Girls High School. It is dated 28 May 2019. This says that Agnes Agyir has been paying for Belinda's education and contacts the school. She also contacts the school to discuss her daughter's progress. The judge found that it "conflicts with the invoice receipt" because the receipt does not identify the sponsor but nevertheless accepts that the sponsor is involved in her daughter's life. This is clearly what the judge means by accepting the "general tenor" of the evidence. This is evidence showing that the sponsor is involved in the life of the child. It is not evidence showing that she is solely responsible.
36. The judge also looked at a report to the police about the disappearance of Maxwell Oppong. Not very much can be deduced from this. It is clearly evidence of a report but it is not supportive or corroborative evidence that the

person Maxwell Oppong has in fact disappeared. The judge explained at paragraph 49 that he was not persuaded that Maxwell Oppong is not a significant figure in the appellant's life and therefore not persuaded that the appellant's sponsor was the sole parent with responsibility.

37. He dismissed the appeal.
38. There was no evidence from the school that wrote the first letter that caused the trouble offering any explanation for, it is said, wrongly identifying the appellant's father. I am uncomfortable making too much of a document that is not before me but a school will ordinarily know the identity of the parents of children in its care and if, carelessly or otherwise, it had given a wrong impression in important correspondence, the general professionalism of teachers is such that it is something they would want to correct. This is a gap in the case. The gap does not of itself prove anything but it does show that there was a problem in the original appeal that has not been addressed in the obvious way.
39. I have reflected carefully on this and on Mr Swain's submissions but this is not a case where the judge has misdirected himself. He has made up his mind on the evidence that was before him using the previous decision as a starting point.
40. I do not accept that the judge gave undue weight to the earlier decision. It had to be considered but the subsequent evidence was also considered fairly.
41. Having reflected on these things I am satisfied that the First-tier Tribunal Judge has not erred in law. He was entitled to reach the conclusions that he did for the reasons that he gave.

**Notice of Decision**

42. I dismiss the appeal against the First-tier Tribunal's decision.

Jonathan Perkins

Signed  
Jonathan Perkins  
Judge of the Upper Tribunal

Dated 21 November 2020