



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case Nos: UI-2022-006058
(HU/51268/2022)
IA/01989/2022

THE IMMIGRATION ACTS

Decision & Reasons Issued:
On the 19 May 2023

Before

UPPER TRIBUNAL JUDGE BRUCE

Between

Noel Deason Nfonkeu

Appellant

and

Entry Clearance Officer

Respondent

Representation:

For the Appellant: Mr T. Hussain, Counsel instructed by Simo Law Firm Leeds
For the Respondent: Mr A. McVeety, Senior Home Office Presenting Officer

Heard at Phoenix House (Bradford) on 24 April 2023

DECISION AND REASONS

1. The Appellant is a national of Cameroon born on the 25th September 2003. He appeals with permission against the decision of the First-tier Tribunal (Judge Caswell) to dismiss his appeal, on human rights grounds, against a decision to refuse to grant him entry clearance as the child of a person present and settled in the United Kingdom. His Sponsor is his mother, Mrs Judith Ngofeu.
2. The case for the Appellant is that his mother and father separated a long time ago. He was brought up by his father in Cameroon whilst his mother migrated to the UK and remarried. The Appellant now applies to rejoin his mother because his father has died, and he is living alone under the care of the Church.
3. The Respondent refused the application for a number of reasons, all of which have now been resolved in his favour by Judge Caswell. Judge Caswell accepted that the Appellant's father died on the 25th February 2000 and that his mother has been exercising 'sole responsibility' for his care since then. Judge Caswell was not however satisfied that the Sponsor was in a position to adequately

maintain and accommodate her son should he come to the UK. Her weekly income of £456.49 was already below the income threshold required by her household of herself plus four minor children, and if joined by the Appellant (who is now an adult) she would lose her single person council tax rate. Her claim that her son would work once he got here was not supported by any documentary evidence. She is already in substantial arrears to Leeds City Council for the rent on her three bedroom home and there was no evidence that she had their permission for the Appellant to move in. On this basis the appeal was dismissed.

4. The first ground of appeal is that Judge Caswell had no business dismissing the appeal with reference to paragraph 297(v) of the Rules (there must be “adequate maintenance”) because this was not an issue between the parties. The Respondent had accepted, in her pre-hearing review of the case, that this requirement of the rule was met. Before me Mr McVeety indicated that this was correct. The Judge appears to have misunderstood the relevant calculations and the Respondent is satisfied that the Appellant’s mother is in a position to adequately maintain her son as well as her other children.
5. The second ground related to accommodation, and this too was resolved before me by agreement between the parties. Contrary to what the ECO had originally thought there was no danger here of overcrowding. A report by Husain Architects, produced before the First-tier Tribunal, had calculated that for the purpose of the Housing Acts the property had a maximum occupancy of 7.5 persons; at the date of the appeal it was only occupied by 4. As such there was no danger of the Appellant’s presence leading to the home being overcrowded. The accommodation was therefore “adequate”. As to the Judge’s observation that there was nothing in writing from Leeds City Council permitting Mrs Ngofeu from taking her own son into her household, Mr McVeety acknowledged that there is nothing in the rules or other policy which requires such confirmation to be produced. The appeal is accordingly allowed, all matters in issue having been resolved in the Appellant’s favour.

Notice of Decision

6. The appeal is allowed.
7. There is no order for anonymity.

Upper Tribunal Judge Bruce
24th April 2023