



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

Appeal Number: OA/21601/2012

**THE IMMIGRATION ACTS**

**No hearing**

**Determination  
Promulgated  
On 8 July 2013**

**Decided on 8 July 2013 at Field House**

**Before**

**UPPER TRIBUNAL JUDGE LATTER**

**Between**

**BARBRA NAA AMERLEY AMAA**

Appellant

**and**

**ENTRY CLEARANCE OFFICER, ACCRA**

Respondent

**DETERMINATION AND REASONS**

1. On 28 May 2013 the following direction was issued in this appeal:

1. Permission to appeal has been granted by the First-tier Tribunal on the grounds that it is arguable that there has been a procedural error to the detriment of the appellant amounting to an error of law.

2. The background to this appeal appears to be as follows. The appellant is a citizen of Ghana who applied for permission to appeal against a decision of the respondent refusing her entry clearance as a dependent child. Her appeal was determined under the provisions of Rule 15(2)(c) of the Asylum and Immigration Tribunal (Procedure) Rules 2005 without a hearing on the basis that she failed to comply with a provision of the Rules or of a direction of the Tribunal issued on 21 November 2012 requiring grounds of appeal to be lodged by 2 January 2013 and no grounds were lodged. Her appeal was dismissed.

3. In the grounds seeking permission to appeal it is asserted that a completed notice of appeal together with the grounds was sent to the Tribunal on 1 November 2012 and was enclosed in the same envelope as a notice of appeal for the appellant's step-sister, Amanda Boa Amponsem as the cases were related. It is argued that it would be impossible for the step-sister's documents to have been received but not the appellant's. Her stepsister's notice and grounds of appeal have been received and acted upon and her appeal is proceeding under case number OA/21592/2012 and is listed for hearing on 19 July 2013 at Hatton Cross. The grounds further assert that neither the appellant nor her representatives received the letter of 21 November 2012 directing that grounds be filed.

4. The appellant's representatives have enclosed with the grounds of appeal copies of the documents sent to the Tribunal which include the appellant's grounds of appeal and confirm that the bundles containing these grounds were sent in the same envelope with the step-sister's appeal bundle

5. It is my provisional view that the appeal before the Upper Tribunal should be determined without a hearing, that the First-tier Tribunal erred in law by proceeding on a mistaken view of whether the grounds of appeal had been filed, that in the circumstances of this appeal the requirements of the Senior President's Practice Statement para 7.2(a) are met as the effect of the error has been to deprive the appellant of a hearing and that the appeal should be remitted to the First-tier Tribunal to be linked with the appeal by her step-sister.

### **DIRECTION**

6. I direct that any representations to the contrary by either party are to be filed with the Tribunal and served on the other party no later than 21 days after the date on which these directions are sent out.

2. Representations have been received from the appellant's solicitors in a letter dated 2 July 2013 confirming their argument that the appeal should be allowed and remitted to the First-tier Tribunal to be heard with the appeal of the appellant's step-sister. No representations had been received from the respondent.
3. In these circumstances I am satisfied that this appeal should be determined without a hearing. The First-tier Tribunal erred in law by proceeding on a mistaken view as to whether grounds of appeal had been filed. The decision is set aside. I am satisfied that this is a proper case for

the appeal to be remitted to the First-tier Tribunal for the decision to be re-made. The appellant has been deprived of the opportunity of putting her case to that Tribunal and the requirements of Para 7.2(a) of the Senior President's Practice Statement are met. The appeal is to be listed for hearing with OA/21512/2012 at Hatton Cross on 19 July 2013.

Decision

4. The First-tier Tribunal erred in law such that its decision should be set aside. I remit the appeal to the First-tier Tribunal for the decision to be reconsidered and re-made.

Signed

Date: 8 July 2013

Upper Tribunal Judge Latta