



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

Appeal Number: VA/08864/2013

THE IMMIGRATION ACTS

Heard at Newport

On 19th June 2014

Determination

Promulgated

On 23rd June 2014

Before

UPPER TRIBUNAL JUDGE POOLE

Between

**AMOY KADIANA TAYLOR
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

ENTRY CLEARANCE OFFICER KINGSTON

Respondent

Representation:

For the Appellant: The UK Sponsor (Mrs Price) attended

For the Respondent: Mr David Mills, Home Office Presenting Officer

DECISION AND REASONS

1. The appellant is a female citizen of Jamaica born 20 October 1994. She applied for entry clearance as a family visitor. In a decision dated 16 April 2013 the respondent refused the application because it was not considered that the appellant satisfied the applicable immigration rules. In summary the respondent considered that the appellant had not shown, on the balance of probabilities, that she was genuinely seeking entry as a visitor or that she intended to leave the United Kingdom at the end of the visit.

2. The appellant appealed against that decision and her appeal came before Judge of the First Tier Tribunal Knowles on 4 February 2014. The appellant was represented by counsel and the respondent was also represented. In a determination dated 14 February 2014 the judge dismissed the appeal both under the rules and by reference to Article 8 ECHR. In doing so the judge found that the appellant had established her relationship as grand-daughter and grand-mother with the UK Sponsor but at paragraph 28 of the Determination found that the appellant had not satisfied the necessary burden to show that she was a genuine visitor and at paragraph 29 it was found that the appellant had not shown that she intended to leave the United Kingdom at the end of her visit.
3. In grounds submitted in support of an application for leave to appeal to the Upper Tribunal it was alleged that the judge erred in finding that the lack of financial incentive was good reason to doubt the appellant's intention to return to Jamaica. It was also alleged that the judge had erred in failing to make a finding on a material issue namely the sponsor's credibility and finally had erred in failing to give the appellant an opportunity to address concerns that the judge had with the evidence.
4. In granting permission to appeal another Judge of the First Tier Tribunal gave his reasons in two lines:

"There is an arguable error of law. The judge did not make findings as to the credibility of the sponsor and this omission arguably vitiates the analysis of whether the rules are fulfilled".
5. Hence the matter comes before me in the Upper Tribunal.
6. At the commencement of the hearing I raised with Mrs Price the absence of solicitors. She indicated that she had withdrawn instructions and was not expecting any representation. I explained in some detail the procedure to be adopted at the hearing and I explained the role of Mr Mills. I emphasised that my job initially was to determine whether there had been a material error of law in the decision of Judge Knowles. I explained what such an error could be.
7. Mrs Price submitted a written statement which, in effect, is in support of the appellant's original application and appeal. It did not address the question of an error of law.
8. Mrs Price said that she relied upon the grounds seeking leave and she gave details of the work undertaken by the appellant's mother. She emphasised that the appellant would be returning to Jamaica after the visit. She contended that the judge made a mistake in that she was not sure whether or not he believed what she had said at the hearing. She had indicated that the appellant would go back. Mrs Price says that she wanted just one of her relatives to come over to see her life in the United Kingdom.
9. Mr Mills in his submission referred to a Rule 24 response which directed my attention to paragraph 28 of the judge's determination. Mr Mills submitted that finances are relevant although not with regard to the question of maintenance. It was a question of incentive for the appellant to return and the judge had made findings with regard to that.

10. Mrs Price finally indicated that banking in Jamaica was not easy and it was costly to get bank statements.
11. At the end of the hearing I gave my decision that I found no error of law that was material to the decision and that therefore the appellant's appeal must be dismissed. I indicated that the reasons would be contained in this written determination.
12. In summary the issues before the judge were in connection with whether or not the appellant was a genuine family visitor and whether or not she intended to return to Jamaica at the end of the visit. The judge clearly set out the burden and standard of proof.
13. The second ground seeking leave and indeed the reasons given for granting leave relate to the absence of a credibility finding in respect of the Sponsor, Mrs Price. It is correct that no such finding was made but I do not consider that Mrs Price's credibility was at issue or indeed relevant. It was the job of the judge to assess the intentions of the appellant and whilst notice must be taken of the sponsor's evidence the judge had to assess the ties the appellant had to her home country in an attempt to assess whether she had discharged the burden with regard to the relevant issues.
14. I do not consider that Mrs Price's credibility was at issue and even if the judge had made a finding on that I do not consider that the overall outcome of the decision would have differed in any way. Paragraphs 28 and 29 of the Determination deal with findings with regard to the relevant issues and paragraph 30 relates to the question of Article 8 ECHR. The decision in respect of Article 8 has not been challenged.
15. The judge was entitled to reach findings as he did with regard to the financial situation of the appellant in her home country. This necessitated taking into account the financial position of the appellant's mother in Jamaica. The judge made findings with regard to her mother's financial position and also with regard to the letter produced by way of reference from "Malcolm's Pre-school".
16. Equally (Ground 3) that document had been produced by the appellant and the judge was entitled to comment upon it. As indicated in the Rule 24 letter no precise findings were made by the judge with regard to the appellant's intention to work and I do not consider that aspect had any weight with regard to the judge's ultimate decision. The judge had already decided that the appellant was not a genuine visitor and any appeal would have failed on that basis alone.
17. For these reasons I do not consider that there was a material error of law in Judge Knowles Determination. His decisions must stand and the appellant's appeal against that decision is dismissed.

Signed

Date

Upper Tribunal Judge Poole

