



IAC-AH-DN-V1

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

Appeal Number: OA/03215/2014

THE IMMIGRATION ACTS

**Heard at Manchester
On 18 November 2015**

**Decision & Reasons Promulgated
On 9 December 2015**

Before

UPPER TRIBUNAL JUDGE CLIVE LANE

Between

[EFE]

~~(ANONYMITY DIRECTION NOT MADE)~~

Appellant

and

ENTRY CLEARANCE OFFICER - NIGERIA

Respondent

Representation:

For the Appellant: Mr M Moksud, agent for IIAS Manchester

For the Respondent: Miss Johnstone, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant, [EFE], was born on 23 May 2002 and is a female citizen of Nigeria. She appealed to the First-tier Tribunal (Judge Cruthers) against a decision of the respondent dated 30 January 2014 to refuse her leave to enter the United Kingdom as the child of a British citizen, [RNE] (hereafter referred to as the sponsor)). The First-tier Tribunal dismissed her appeal in a decision dated 29 December 2014. The appellant now appeals, with permission, to the Upper Tribunal.

2. The judge found that the appellant lives with and is cared for by her mother in Nigeria although the sponsor is concerned with her upbringing. At [37] the judge wrote:

“The import of paragraphs 8 to 11 of the sponsor’s current statement is that the sponsor is consulted as regards significant decisions concerning the appellant and, perhaps, generally makes the final decision. But, at the risk of repetition, even at face value this evidence does not establish sole responsibility. In my judgment this is a case where responsibility for the appellant is, clearly, shared between the two parents (as per *TD (Yemen)*). There is nothing to show that moving away from her mother, to a different country and culture, would be in the best interests of the appellant.”

3. The grounds of appeal misinterpret the passage which I have quoted above. Having quoted the passage in the grounds, the appellant asserts that “[The judge] erred when in the same breath he rejected it arbitrarily holding that this evidence does not establish sole responsibility” (*sic*). On the contrary, the judge had not found as a fact that, for example, the sponsor “generally makes the final decision.” He was, at [37], simply setting out the appellant’s case and the sponsor’s evidence. Elsewhere in the decision [35] the judge had found that the appellant had failed to discharge the burden of proving that the sponsor has sole responsibility for her. On the facts, there was nothing to compel the judge, even if he were to accept the sponsor’s most recent statement at face value, necessarily to find that responsibility was not shared but rested solely with the sponsor. In other words, the fact that one parent may “generally make the final decision” does not, of necessity, always mean that that parent has sole responsibility and does not share responsibility with the other parent. Consequently, there was no contradiction in the judge’s findings as the grounds assert.
4. As regards the other grounds, they are without merit. There is a complaint that the judge did not attach sufficient weight to evidence of financial payments but also to evidence “favouring the appellant proved her case.” There is also an allegation that the judge applied “a very high standard of proving (*sic*)” with absolutely no attempt to justify that assertion by reference to the decision itself. All of these other grounds, in my opinion, fall firmly into the category of disagreement with findings open to the judge on the evidence before him. The judge’s analysis is legally sound, even-handed and supported by clear and cogent reasons. It is not legally flawed for the reasons asserted in the grounds of appeal or at all.

Notice of Decision

The appeal is dismissed.

~~No anonymity direction is made.~~

Signed

Date 10 November 2015

Upper Tribunal Judge Clive Lane

TO THE RESPONDENT
FEE AWARD

I have dismissed the appeal and therefore there can be no fee award.

Signed

Date 10 November 2015

Upper Tribunal Judge Clive Lane