

**Upper Tribunal  
(Immigration and Asylum  
Chamber)  
Appeal Number:  
OA/14386/2014**



**THE IMMIGRATION ACTS**

**Heard at Birmingham Employment Centre  
On 3 May 2016**

**Decision Promulgated  
On 6 June 2016**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE McCARTHY**

**Between**

**ENTRY CLEARANCE OFFICER, KINGSTON**

Appellant

**And**

**JEROME MARVIN THOMAS  
(NO ANONYMITY ORDER)**

Respondent

**Representation:**

For the Appellant: Mr D Mills, Senior Home Office Presenting Officer  
For the Respondent: Mrs G Wormington (mother and sponsor)

**DECISION AND REASONS**

1. After the hearing on 8 March 2016, I decided that the decision and reasons statement of Judge Iqbal promulgated on 7 September 2016 contains an error on a point of law and needed to be set aside. My reasons were set out in my decision that was issued on 6 April 2016. As it was necessary to make a fresh decision in relation to the original appeal, I arranged for the hearing to be resumed and that took place on 3 May 2016.
2. Mrs Wormington attended the hearing with her husband but without any legal representative. They explained they had lost confidence in their previous representatives because of what had happened and the guidance they had been given to rely on post-decision evidence. After some detailed discussion, I explained that I had to dismiss the appeal because there was no power to take into account events that had happened after the date of decision (which was 3 October 2014) and which had not been foreseeable. The evidence relied on to support the appellant's contention

that he needed to be in the care of his mother all post dated the date of decision and therefore could not be considered irrespective of how compelling it might be.

3. Naturally my decision was disappointing to Ms Wormington but she understood the reasons and understood that it was open to her son to make a fresh application based on his current circumstances. Mr Wormington told me that they were aware of the difficult hurdle they had to overcome, which was not helped by the difficulties in getting medical evidence from Jamaica.
4. For the sake of clarity, I confirm that there is no dispute that at the date of decision the appellant enjoyed family life with his mother, the sponsor despite living apart. The evidence provided does not show, however, that his personal circumstances at that time outweighed the public interest in maintaining effective immigration controls because at that time the appellant was being cared for adequately by others. The fact that his care arrangements have changed and his condition has deteriorated since the date of decision are not ones that can be considered in this appeal and no findings are made on those matters.

### **Decision**

5. The decision and reasons statement of Judge Iqbal contained an error of law and is set aside. I remake the decision and dismiss the appeal against refusal of entry clearance.

Signed

Date

Judge McCarthy  
Deputy Judge of the Upper Tribunal