



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

Appeal Number: UI-2021-001504  
HU/10619/2019

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 6 May 2022**

**Decision & Reason Promulgated  
On 22 July 2022**

**Before**

**UPPER TRIBUNAL JUDGE PERKINS**

**Between**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Appellant

**and**

**HANNAN SAME CONTEH**

Respondent

**Representation:**

For the Appellant: Mr S Whitwell, Senior Home Office Presenting Officer

For the Respondent: Mr A Slatter, Counsel instructed by Mercy Law Ltd,  
Solicitors

**DETERMINATION AND REASONS**

1. This is an appeal by the Secretary of State against a decision of the First-tier Tribunal to allow the appeal of the respondent, hereinafter “the claimant”, against the decision of the Secretary of State by an Entry Clearance Officer to allow on human rights grounds the claimant’s appeal against a decision of the Secretary of State to refuse her leave to enter the United Kingdom as a dependent child. The claimant is now aged over 18 years, there is no need to set out her circumstances in detail and I see no reason to grant anonymity.

2. The Secretary of State took two points.
3. First it was said that the First-tier Tribunal Judge had erred by giving inadequate reasons for finding that the claimant's parent in the United Kingdom had exercised sole responsibility. I doubt that this ground is made out. It was the claimant's case that the sole responsibility was not long standing but had come about because of a change in her personal circumstances. However I need not decide the point as, even if made out, the error is immaterial. The judge also found that there were serious and compelling family or other circumstances that made the claimant's exclusion undesirable and there was no challenge to that finding so the human rights balancing exercise was illuminated by the claimant satisfying the material rules relating to her circumstances even if the "sole responsibility" finding was unsound.
4. This did not dispense with the matter. Although the judge set out the requirements of the rules relating to maintenance she did not make any findings. Mr Slatter conceded that this was an error but said that the evidence before the First-tier Tribunal clearly showed that the claimant's arrival would not create a recourse to public funds. We have no way of knowing if the judge appreciated this; it may be that she did but did not explain it. Certainly the judge set out evidence supporting the claimant's case but she did not make any findings.
5. Mr Slatter submitted that this error should not cause me to set aside the decision because the appeal would have to be allowed again if the decision was remade.
6. Mr Whitwell, understandably in all the circumstances, had not been able to digest the point before the hearing and, rather than let the hearing descend into an unseemly cacophony of clicking calculators and rushed recollections of benefit law I decided to adjourn the hearing for a month for him to consider the position, subject to further submissions being received before the adjourned hearing date.
7. Today I received by e-mail a note from Mr Whitwell including quite detailed references to benefits regulations and confirming in some detail that the available income "is adequate for the purposes of 297 of the Immigration Rules.
8. In the circumstances I have completed my Decision and Reasons without need for a further hearing and I dismiss the Secretary of State's appeal.

**Notice of Decision**

9. The Secretary of State's appeal against the decision of the First-tier Tribunal to allow the claimant's appeal is dismissed.

Jonathan Perkins

Signed  
Jonathan Perkins  
Judge of the Upper Tribunal

Dated 1 June 2022