



Upper Tribunal

(Immigration and Asylum Chamber)

Appeal Number: UI-2022-001997

EA/09630/2021

THE IMMIGRATION ACTS

Decision & Reasons Issued:

On the 16 May 2023

Before

UPPER TRIBUNAL JUDGE PITT

Between

**MR MUBARAK YAKUBU
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

ENTRY CLEARANCE OFFICER

Respondent

Representation:

For the Appellant: Not present

For the Respondent: Mr Melvin, Senior Home Office Presenting Officer

Heard at Field House on 17 April 2023

DECISION AND REASONS

1. This is an appeal against the decision issued on 15 December 2021 of First-tier Tribunal Judge Mulholland which refused the appellant's appeal against refusal of an EUSS Family Permit dated 15 April 2021.

Background

2. The appellant is a citizen of Ghana and was born on 22 April 2002.
3. The appellant applied for an EUSS Family Permit on 16 March 2021. He maintained that he was the son of Memuna Mahamud, a German national.

The application was refused on 15 April 2021. The appellant relied on a birth certificate issued on 29 January 2021 recording that his birth had been registered on 4 December 2020. This was 18 years after he was born. Country reports indicated that registrations not made within a year of birth were not reliable. The respondent did not accept that the appellant had shown that he was related as claimed to the EEA sponsor as a result.

4. The appellant appealed the refusal to the First-tier Tribunal. He relied on a letter from the Ghana Birth Registry dated 2 September 2021. This stated that there was a record in the Register of Births of the appellant's birth certificate having been issued on 29 January 2021 and of the appellant's birth being registered on 4 December 2020 using his birth and child health records. The letter stated that the birth certificate was genuine. Witness statements from the appellant and the sponsor maintained that they were related as claimed. The appellant also relied on a copy of a child health record which stated that Memuna Mahamud as his mother.
5. The First-tier Tribunal found in paragraphs 16 to 19 of the decision that the letter from the Ghana Birth Registry was not sufficient to show that the birth certificate was reliable and that the appellant had not shown that he was related as claimed to the EEA sponsor. The letter from the Registry did not address the issue of the birth having been registered 18 years after the appellant's birth, the limited evidence alleged to have been used to obtain it or the country evidence on the unreliability of such registrations. The appellant and sponsor did not provide evidence explaining why his birth was not registered until 2020 or why his brother registered his birth, not his mother. There was evidence from a reliable source indicating that late registrations conducted in this manner were not reliable. The appellant had the opportunity to provide DNA evidence but had not done so.
6. The appellant was granted permission to appeal to the Upper Tribunal by the First-tier Tribunal on 8 February 2022. The grounds maintained that the First-tier Tribunal did not adequately consider the information from the Birth Registry that the birth certificate had been issued using birth and child health records. The First-tier Tribunal failed to give appropriate weight to the child health records provided.
7. On the morning of the hearing I received an email from the appellant's legal representatives indicating that the appeal should be decided on the papers. In light of that indication I concluded that I could decide the appeal in the absence of the appellant, the sponsor and the appellant's legal representatives. Mr Melvin confirmed the respondent's position remained that set out in the Rule 24 response dated 15 March 2022.
8. I did not find that the grounds had merit. It was clearly open to the First-tier Tribunal to find that very limited evidence had been provided to show that the appellant was related as claimed to the sponsor. He was entitled to place weight on there being no explanation of why the birth was registered only in 2020 and why it was done by the appellant's brother.

The witness statements of the appellant and sponsor did not confirm that the birth had been registered on the basis of the child health records or what other documents, if any, had been used. The judge took a rational approach in finding that the appellant's claim was undermined by his apparently having the child health records available but his birth not being registered for many years. This was a situation where a birth had been registered many years after the claimed birth on the basis of limited evidence. The judge was entitled to find that these circumstances were in line with those set out in the country evidence concerning the unreliability of such registrations and that it had not been shown on the balance of probabilities that the appellant was related as claimed to the EEA sponsor.

9. For these reasons, I did not find that the grounds showed an error in the decision of the First-tier Tribunal. Any error concerning the need to show dependency is not material where the finding that the appellant is not related as claimed to the EEA sponsor is upheld.

Notice of Decision

10. The decision of the First-tier Tribunal does not disclose an error on a point of law and shall stand.

Signed: S Pitt
Upper Tribunal Judge Pitt

Date: 18 April 2023