



**IN THE UPPER TRIBUNAL**  
**IMMIGRATION AND ASYLUM**  
**CHAMBER**

**Case No: UI-2022-005251**  
On appeal from: HU/56537/2021  
**IA/15143/2021**

**THE IMMIGRATION ACTS**

**Decision & Reasons Issued:**  
**On 27 April 2023**

**Before**

**UPPER TRIBUNAL JUDGE GLEESON**

**Between**

**DERIKA AKOSUA SERWAA AMOAH**  
**(NO ANONYMITY ORDER)**

Appellant

**and**

**THE ENTRY CLEARANCE OFFICER**  
**SHEFFIELD**

Respondent

**Representation:**

For the Appellant: Sponsor in person

For the Respondent: Mr Stephen Walker, a Senior Home Office Presenting Officer

**Heard at Field House on 3 March 2023**

**DECISION AND REASONS**

**Introduction**

1. The appellant challenges the decision of the First-tier Tribunal dismissing her appeal against the respondent's decision on 15 September 2021 to refuse her application for entry clearance with reference to paragraph 297(i)(e) of the Immigration Rules HC 395 (as amended). The appellant is a Ghanaian citizen.
2. For the reasons set out in this decision, I have come to the conclusion that this appeal falls to be allowed outright.

3. **Mode of hearing.** The hearing today took place face to face.

### **Background**

4. The appellant wishes to join her father, Eric Amoah, who is a British citizen of Ghanaian origin and a former member of HM Forces. In 2010, he was awarded the Operational Service Medal for service in the Royal Logistics Corps in Afghanistan Zone 1.
5. The main basis of the appellant's case is that, her mother having abandoned her when she was very young, her father has had sole responsibility for her for the last 14 years, albeit with the help of a family friend in Ghana with whom she has been living. When the appellant made this application, she was still a minor, although she was already 17 years old. She is an adult now but the appeal falls to be considered as at the date of decision.
6. The respondent in her refusal letter did not accept that the mother was not in contact with the appellant, challenged the DNA evidence of the parental link with her father, and rejected the sole responsibility element of her claim. She considered it unclear why it would now be appropriate for the appellant to relocate to the UK: the sponsor had visited her in Ghana and there was no reason why he could not return and live in Ghana with her.
7. First-tier Judge Andrew dismissed the appeal principally because she did not accept that the sponsor had sole responsibility for the appellant. She did not find that the appellant's mother was involved in her life: instead, she found that the sponsor had abrogated his parental responsibility to the family friend who had been looking after the appellant in Ghana. The Judge accepted the evidence of the familial link between the sponsor and appellant, as reliable DNA evidence had been obtained.
8. Permission to appeal to the Upper Tribunal was granted on the sole responsibility point: see *TD (paragraph 297(i)(e): 'sole responsibility') Yemen* [2006] UKIAT 49. In particular, when granting permission, First-tier Judge Murray considered that there had arguably been inadequate consideration of the evidence from Ransom Education Centre, where the appellant had studied, to the effect that the sponsor attended open day sessions 'any time he was in Ghana'.
9. There was no Rule 24 Reply on the respondent's behalf.
10. That is the basis on which this appeal came before the Upper Tribunal.

### **Upper Tribunal hearing**

11. The oral and written submissions at the hearing are a matter of record and need not be set out in full here. I had access to all of the documents before the First-tier Tribunal, in particular the appellant's school letters,

and handwritten letters to her father saying that she was not being well treated by 'Uncle Alex' (no relation) who was looking after her.

## **Conclusions**

12. The test in *TD* was summarised in the judicial headnote:

*““Sole responsibility” is a factual matter to be decided upon all the evidence. Where one parent is not involved in the child's upbringing because he (or she) had abandoned or abdicated responsibility, the issue may arise between the remaining parent and others who have day-to-day care of the child abroad. The test is whether the parent has continuing control and direction over the child's upbringing, including making all the important decisions in the child's life. However, where both parents are involved in a child's upbringing, it will be exceptional that one of them will have "sole responsibility".”*

13. The Upper Tribunal is slow to interfere with findings of fact by the First-tier Judge, but in this case, the evidence is clear that the appellant's sponsor father did take a continuing interest, visiting Ghana regularly, engaging with the appellant's school, sending money and making all major decisions about her. There is no question but that the appellant's mother has abandoned her, long ago when she was very small.

14. The decision of the First-tier Judge is perverse, on the evidence before her, and cannot stand. The evidence meets the *TD* test for sole responsibility.

15. The appeal is allowed.

## **Notice of Decision**

16. For the foregoing reasons, my decision is as follows:

The making of the previous decision involved the making of an error on a point of law.

I set aside the previous decision. I remake the decision by allowing the appeal.

Judith A J C Gleeson  
Judge of the Upper Tribunal  
Immigration and Asylum Chamber

**Dated: 6 March 2023**