



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

Case No: UI-2023-004946  
UI-2023-004962  
UI-2023-004963  
First-tier Number: EU/50993/2023  
EU/50994/2023  
EU/50995/2023

**THE IMMIGRATION ACTS**

**Decision & Reasons Issued:**

On 12<sup>th</sup> of January 2024

**Before**

**UPPER TRIBUNAL JUDGE BRUCE**

**Between**

**MATILDA ADOM FRIMPONG  
VENESSA FRIMPONG  
VERA FRIMPONG  
(no anonymity order made)**

Appellant

**and**

**Entry Clearance Officer, Accra**

Respondent

**Representation:**

For the Appellant: Mr Antwi-Boasiako, Counsel instructed by R. Spio & Co  
For the Respondent: Ms Lecointe, Senior Home Office Presenting Officer

**Heard at Field House on 3 January 2024**

**DECISION AND REASONS**

1. The Appellants are sisters, all nationals of Ghana who seek family permits to enter the United Kingdom to join Mr Martin Frimpong, a national of the Netherlands with settled status, whom they claim to be their father. The Respondent refused their applications on the 23<sup>rd</sup> January 2023 and on the 16<sup>th</sup> October 2023 the First-tier Tribunal (Judge Rothwell) dismissed their linked appeals. The Appellants were granted permission to appeal on the 20<sup>th</sup> November 2023.

2. The central matter in issue before the First-tier Tribunal was whether the Appellants were related as claimed to Mr Frimpong. The Respondent had doubted that they were because the only evidence that had been produced supporting the claim that he was their father were biometric birth certificates issued well after the girls' births. The Tribunal agreed that the certificates were not sufficient to discharge the burden of proof. The ECO considered that in order to get those certificates the Appellants would have to have produced certain other documents to the Ghanaian authorities, yet none of that was available for production in the appeals. The decision then says this:

17.The appellants have chosen to obtain letters from various Government departments in Ghana confirming the various signatures on documents are genuine. But none of the signatures that they state are genuine appear on any of the documents before me. Mr Richard Apietu confirms the signature of Eve Quartey on the 1st appellant's birth certificate. I could not see the signature of Eve Quartey on the document, as the registrar was Edward Norteye. There is a further letter from Henrietta Lamptey Registrar of Births and Deaths confirming the entry into register. There are similar documents for the 1st and 2nd appellants. I do not place weight upon these documents, as they are confusing and they do not address the issues raised by the respondent in the refusal notices, about the documents produced to obtain the biometric birth certificates.

3. The Appellants submit that the Tribunal erred in two respects in its decisions about the birth certificates. I take each ground in turn below.
4. A further issue arises in respect of the first Appellant, Matilda, who was not a minor at the date of application and so is required to establish dependency upon her claimed father in order to qualify. As the parties agreed before me, this ground stands and falls with the challenge to the reasoning on the birth certificates, since it is fair to say that having found as she did, Judge Rothwell did not really address the point.

### **Ground 1: Failure to Apply Published Guidance**

5. The Appellant submits that the Tribunal failed to have regard to the definitions contained in Appendix EU in respect of 'evidence of birth'. The definitions section contained in Annex 1 states:

"Evidence of birth: (a) (in the case of a child) the full birth certificate(s) or other document(s) which the Secretary of State is satisfied evidences that the applicant is the direct descendant of (or otherwise a child of) the relevant EEA citizen (or, as the case may be, of the qualifying British citizen or of the relevant sponsor) or of their spouse or civil partner,....."

6. It is submitted that the birth certificates here provided established a *prima facie* case that the Appellants were related as claimed to Mr Frimpong. It was for the

Respondent to show otherwise, and since no evidence had been supplied by the Respondent to cast doubt on the authenticity of the documents, the burden of proof on the Appellants had been discharged. It is submitted that it was irrational for the Tribunal to have found that it had not.

7. For the Respondent Ms Lecointe relied on the refusal notice. The short point was that the terms of Annex 1 Appendix EU are that the birth certificate produced as evidence of birth must satisfy the Secretary of State that direct descent is established. These ones did not.
8. The terms in which Appendix EU are drafted are in many ways unsatisfactory, and the relevant part here is no exception. Setting aside why an individual might ever be required to prove that he or she had been born, the definition in Annex 1 actually adds very little to common sense and practice. A birth certificate is generally regarded as good evidence of identity, and the Secretary of State will, absent particular reasons, normally accept it at face value. Here we are concerned with establishing the relationship of one person with another – the direct descent of the Appellants from Mr Frimpong. A short birth certificate, which does not name the parents, is no good in this context. That is all that Annex 1 seems to say. The question is whether, in this case, there are reasons to doubt that the birth certificates did in fact establish direct descent.

## **Ground 2: Misunderstanding the Evidence**

9. As to the passage that I have cited above, concerning the various signatures on the documents, the Appellants submit that the Tribunal has confused itself. The birth certificates were not signed by Eve Quartey. Ms Quartey is the notary whose stamp, signature and seal appear on the documents to verify them. The stamps appear as purple ink rectangles to the top centre right of the certificates. Mr Apietu, who is the Second Deputy Judicial Secretary, has countersigned over hers. Mr Apietu has provided a letter verifying that Ms Quartey's signature and stamp are authentic, and Mr Akangbong of the Legal and Treaties Bureau has in turn verified Mr Apietu's signature. It is submitted that the Tribunal erred in misconstruing the evidence and as a result attaching no weight to it.
10. It is further submitted that the Tribunal appears to have misunderstood Mr Frimpong's evidence. He did not say that he obtained the certificates from the passport office. His consistent evidence was that they are from the registrar of births and deaths, as one would expect. This was his oral evidence, and what he says at paragraph 4 of his witness statement.
11. For the Respondent Ms Lecointe accepted that these errors are made out. She invited me to set the decision aside for that reason, accepting that but for the Judge's confusion, the appeals might have been allowed.

## **The Decisions Re-Made**

12. Although Ms Lecointe initially invited me to remit this matter for hearing *de novo* in the First-tier Tribunal she did not in the end resist the submission of Mr

Antwi-Boasiako that there would be little point in doing so. I therefore remake the decisions in the appeals on the evidence that is before me.

13. The first matter in issue is whether the Appellants have established their claimed relationship with Mr Frimpong. The evidence in support of the Appellants' claim that he is their father is as follows:

- For each Appellant a Certified Copy of an Entry in the Register of Births bearing the countersigned stamp of notary Ms Quartey and a holographic stamp
- For each of these certificates a letter dated the 21<sup>st</sup> June 2022 from Ms Henrietta Lamptey, Registrar of Births and Deaths is provided stating that the births are indeed entered into the register as shown on the certificates
- Witness statements from each Appellant averring that Martin Frimpong is her father
- A witness statement by Mr Martin Frimpong dated the 4<sup>th</sup> July 2023 averring that he is the father of the Appellants, evidence he maintained in oral evidence before the First-tier Tribunal
- A letter from Mr Adu Kofi Samuel, the Headmaster of Okomfo Anonkye Senior High School dated the 3<sup>rd</sup> March 2023 which states that Matilda was a pupil there until 2012. The letter records that the school administration was aware that Mr Martin Frimpong, her father was very much concerned for her education and that he was always ready to settle her fees
- A letter from Ms Rebecca Ofori, Headmistress of the Feyiase Junior High School dated the 16<sup>th</sup> February 2023. Ms Ofori writes that Venessa and Vera, who are twins, attended the school together and both left in July 2017. She writes that she was aware that their father Mr Frimpong, who lives abroad, was the one taking care of them and that he always paid their fees. He would sometimes call from abroad to check on their performance
- A letter from Mr Emmanuel Boakye, Assistant Headmaster of Gyaama Pensan Senior High Tech School dated the 16<sup>th</sup> February 2023, stating that Venessa was a pupil there until 2020. The letter states that the school authorities were aware that Venessa was cared for by her father Mr Martin Frimpong who lived abroad, and that he visited Venessa at school and engaged with her teachers whenever he was in Ghana
- A further letter from Mr Emmanuel Boakye dated the 16<sup>th</sup> February 2023 in respect of Vera. This states that Vera also left in 2020 and is couched in the same terms as that relating to Venessa

14. Further the evidence that Mr Frimpong has been supporting these young women financially over a period of some years (a matter I return to below) is generally supportive of the proposition that he is related to them as claimed.
15. The evidence going against the claim that the Appellants are the daughters of Mr Frimpong consists of the unparticularised assertion in the refusal notice that some other documents would have been necessary to procure the biometric birth certificates. As Mr Lecointe fairly acknowledged, the notices do not specify what these documents might be, or the evidential basis upon which the assertion is made. The Respondent has had approximately a year to conduct verification checks on the birth certificates but to date has failed to do so.
16. It is perhaps obvious from the foregoing, I am satisfied that the Appellants have discharged the burden of proof on them and shown that on balance, Mr Frimpong is their father. That has been their consistent evidence, supported by biometric birth certificates and letters of verification, and the records held by various schools in Ghana going back as far as 2005. There is absolutely no evidence going the other way.
17. It follows that the appeals of Venessa and Vera must be allowed, since direct descent from Mr Frimpong was the only matter in issue.
18. In Matilda's case, the parties agree, one more matter must be determined. That is whether she has established that she is dependent upon her father for her essential living needs.
19. The documents before me, namely NHS payslips and a P60 establish that Mr Frimpong is a Band 5 qualified nurse who in the year to April 2023 earned £44,141. His payslips since that date show monthly take-home earnings of approximately £3000. The Appellants have each sworn a witness statement averring that their father has supported them financially since they were born. This accords with the evidence from their various schools referred to above, in which the respective headteachers confirm that it was Mr Frimpong who always settled their bills. Matilda explains that she is now a qualified nurse herself, but states that in Ghana, her salary as a newly qualified practitioner is not enough to meet her essential living needs:

“ 5. I note that the evidence I provided to confirm my dependency was not given the required weight. I am highly reliant on my father for all my basic needs and necessities. My father has been the sole person who has taken care of all of my sisters and my needs and continues to do so.

6. After completing my nursing education in midwifery in 2018, I did my National Service from 2019-2020. I then found work in April 2021 at St Joseph's Health Centre in Savana Region, Ghana, I was not paid until September 2021. All that time my father took care of all my needs.

7. I currently earn an average of 1900 GHC which is not enough to take care of my needs. Out of the 1900 GHC, almost 800 GHC

goes towards loan repayments and the rest is used to sponsor future courses that I am pursuing and other expenses such as clothing. My father continues to pay for my accommodation and also provides me with money for food and bills. I would struggle to survive without my father's help.

8. My father and I are very close. He is my confidante, role model, advisor and source of support. He is not only my sole financial provider, but he is also the person I turn to for support. I humbly ask for my appeal to be allowed to enable me to join my father in the UK".

20. The bundles contain receipts from two money transfer companies, 'Unity Link', and 'Remitly'. These receipts go back to April 2021 and show that Mr Frimpong sends weekly remittances to his daughters of between approximately £50 and £120. This, he says, is the money which Matilda uses to supplement her "meagre" income as a nurse. After she has paid her student loan back she needs his money for things like rent, food and clothing.
21. Having considered all of the evidence before me I am satisfied that Matilda has always been financially reliant upon her father, and that although she is now an adult, and a qualified nurse herself, her income at this stage of her career is such that she must continue to rely on him for the moment to meet her essential living needs. It follows that her appeal must too be allowed.

### **Decisions**

22. The decision of the First-tier Tribunal is set aside.
23. The decision in the appeals is remade as follows: the appeals are allowed.
24. There are no orders for anonymity.

Upper Tribunal Judge Bruce  
Immigration and Asylum Chamber  
7<sup>th</sup> January 2024