



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

Case No: UI-2024-003779

First-tier Tribunal No: HU/58335/2023

**THE IMMIGRATION ACTS**

**Decision & Reasons Issued:**

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

**Before**

**UPPER TRIBUNAL JUDGE FRANCES**

**Between**

**TASSADIT MEZAR**  
**(ANONYMITY ORDER NOT MADE)**

Appellant

**and**

**ENTRY CLEARANCE OFFICER**

Respondent

**Representation:**

For the Appellant: Ms M Tariq, Axis Solicitors Limited

For the Respondent: Mr J Thompson, Senior Home Office Presenting Officer

**Heard by CVP at Field House on 4<sup>th</sup> November 2024**

**DECISION AND REASONS**

1. The Appellant is a citizen of Algeria born on 29 July 2005. She appeals against the decision of First-tier Tribunal Judge Le Grys dated 26 June 2024 dismissing her appeal against the refusal of leave to enter on human rights grounds.
2. It is not in dispute that the appellant is the daughter of the sponsor who is a British citizen. The appellant was 17 years old at the date of application and 18 years old at the date of the hearing before the First-tier Tribunal. The appellant was represented by the sponsor before Judge Le Grys ('the judge').

**The Judge's Findings**

3. The judge stated that he had considered all the documentary evidence and considered all the evidence in the round. He was satisfied that the appellant had family life with the sponsor and Article 8(1) was engaged. The judge accepted the sponsor was involved in the appellant's upbringing but was not satisfied that the sponsor had sole responsibility for the following reasons:
  - (a) There were no statements from the appellant or her grandparents with whom the appellant lived in Algeria.
  - (b) Save for the sponsor's assertion, there was very little evidence to show the appellant's mother did not play a role in her life.
  - (c) The certificate from the mayor amounted to an unevicenced assertion and contained no details as to the source if the information.
  - (d) The medical certificate in respect of the grandfather was equally brief and amounted to an unsupported assertion.
  - (e) The photographs, messages, payment of bills and the sending of money, whilst sufficient to show the sponsor was involved in the appellant's upbringing, was insufficient to establish the sponsor had sole responsibility for the appellant's care.
  - (f) There was insufficient evidence to support the sponsor's assertion that he had taken all the key decisions in the appellant's life.
4. The judge concluded at [24] and [25] that:
  - "24. Taken together and considered in the round. I am satisfied that the sponsor has a role in the Appellant's life and has provided support for her. I am further satisfied that he now wishes for her to come to the UK so that she can be provided with better opportunities. I am not satisfied, however, that it has been shown that he is solely responsible for her upbringing. This is a largely unsupported assertion that does not reflect the reality that they have lived apart for the majority of her life.
  25. Furthermore, the refusal results in the continuation of a situation that has satisfactorily existed for many years, with the Appellant now an adult and therefore able to contribute far more significantly to her own care. In such circumstances I am not satisfied that there are serious or compelling considerations that make her exclusion undesirable."
5. The judge found there was insufficient evidence of the sponsor's income and the financial requirements were not met. The judge concluded the refusal of entry clearance was proportionate and did not breach Article 8 ECHR.

### **Grounds of Appeal**

6. The appellant appealed on the grounds the judge failed to take into account the letters dated 9 March 2023 from the appellant's grandparents and the sponsor. The judge failed to give reasons for why he did not accept the sponsor's evidence about the appellant's mother or why he attached little weight to the medical certificate relating to the appellant's grandfather. The judge failed to give reasons for attaching little weight to the letter from the mayor and he failed to ask the sponsor about it. The WhatsApp messages demonstrated the sponsor was in contact with the appellant's school and there was sufficient evidence to show he had sole responsibility. The judge failed to take into account the bank statements, payslips, P60 and the tenancy agreement which clearly showed that the financial requirements were met.

7. Ms Tariq relied on the grounds and submitted the judge had erred in law and the appeal should be remitted to the First-tier Tribunal to consider the new evidence at pages 19-46 of the Upper Tribunal bundle. She submitted the judge had failed to consider critical pieces of evidence. There was clear evidence the sponsor had sole responsibility for the appellant and the judge failed to attach weight to the support certificate from the mayor. The judge failed to attach weight to the evidence that the grandparents were unable to look after the appellant. The judge entirely overlooked the letters dated 9 March 2023 from the grandparents and the sponsor and made no reference to them in his decision. There was no issue on credibility and the judge gave the sponsor the benefit of the doubt in finding the sponsor would not require the assistance of public funds to maintain the appellant. Had the judge properly considered all the evidence before him he would have found the sponsor had sole responsibility.
8. Mr Thompson relied on the Rule 24 response and submitted the judge noted the absence of evidence which the appellant could have obtained but did not produce. The weight to be attached to the evidence was a matter for the judge and the grounds merely disagreed with the judge's findings. It was apparent the judge had taken all the evidence into account. Any failure to make reference to each piece of evidence did not mean the judge had not taken it into account before coming to conclusions which were open to him on the evidence. The evidence produced was insufficient to establish the sponsor had sole responsibility for the appellant. There was insufficient evidence of the sponsor's income and expenditure and no reason why the new evidence was not before the First-tier Tribunal. There was no error of law in the judge's decision.

### **Conclusions and Reasons**

9. The judge does not have to refer to every document in the appellant's bundle and he stated at [13]:

"I have taken account of everything I have heard and considered all the documentary evidence I have been referred to by the parties. I have carefully considered all the evidence in the round. I shall refer to the evidence and submissions so far as necessary to explain my findings and reasons."
10. In HA (Iraq) v SSHD [2022] UKSC 22 the Supreme Court held at [72]

"It is well established that judicial caution and restraint is required when considering whether to set aside a decision of a specialist fact finding tribunal. In particular:

  - (i) They alone are the judges of the facts. Their decisions should be respected unless it is quite clear that they have misdirected themselves in law. It is probable that in understanding and applying the law in their specialised field the tribunal will have got it right. Appellate courts should not rush to find misdirections simply because they might have reached a different conclusion on the facts or expressed themselves differently.
  - (ii) Where a relevant point is not expressly mentioned by the tribunal, the court should be slow to infer that it has not been taken into account.
  - (iii) When it comes to the reasons given by the tribunal, the court should exercise judicial restraint and should not assume that the tribunal misdirected itself just because not every step in its reasoning is fully set out."
11. I am satisfied the judge's failure to specifically mention the letters dated 9 March 2023 submitted with the appellant's application for entry clearance did not

mean the judge had not considered them in coming to his conclusion that the sponsor had failed to establish sole responsibility for the appellant.

12. Further and alternatively, the failure to specifically reference these letters in the decision was not material for the following reasons. It is apparent when the decision is read as a whole that the judge found there was insufficient documentary evidence to support the sponsor's assertion that he had sole responsibility for the appellant. There were no statements from the appellant, her grandparents or her mother.
13. The letters dated 9 March 2023 do no more than repeat the assertions made in other documents and they do not assist the appellant's case. At page 1039 of the Upper Tribunal Bundle it stated the appellant's grandparents were no longer able to care for her and they gave consent for her to come to the UK. At page 1040 the appellant's grandfather stated that the appellant had been living with her grandparents for several years and they had been caring for her. Their health was deteriorating and they did not have the strength or ability to care for the appellant. The appellant's grandfather stated, "We would like our son [the sponsor] to take full responsibility for his daughter now and make the necessary arrangements so that [the appellant] can join and reside with him in the UK." The letters support the judge's conclusion that responsibility for the appellant's care was shared between her grandparents and he sponsor.
14. The judge gave adequate reasons for the weight he attached to the documentary evidence which was lacking details of the source of the information or, in respect of the medical evidence, the reason why the appellant's grandparents were no longer able to look after her. The judge cannot be criticised for failing to take into account evidence which was not before him. The new evidence does not assist the appellant in establishing an error of law in the judge's decision.
15. The judge took into account the WhatsApp's messages, the photographs, payment of bills and the money sent to the appellant by the sponsor and considered all the evidence in the round. His finding that there was insufficient evidence to show the sponsor had sole responsibility was open to him on the evidence before him.
16. The appellant's ability to satisfy the financial requirements was a neutral matter in the Article 8 assessment. There was no challenge to the judge's findings at [30] to [34]. I conclude the judge's finding that the refusal of entry clearance was proportionate was one which was open to the judge on the evidence before him.
17. I find there was no material error of law in the decision dated 26 June 2024 and I dismiss the appellant's appeal.

## **Notice of Decision**

**Appeal dismissed.**

**J Frances**

Judge of the Upper Tribunal  
Immigration and Asylum Chamber

**8 November 2024**