



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: HU/03750/2018

**THE IMMIGRATION ACTS**

Heard at Field House  
On 15 May 2019

Decision & Reasons Promulgated  
On 30 May 2019

Before

**DEPUTY UPPER TRIBUNAL JUDGE SYMES**

Between

**DANILLE TOESHA CAMPBELL  
(ANONYMITY ORDER NOT MADE)**

Appellant

and

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr V Nwike (for Pillai and Jones Solicitors)

For the Respondent: Ms S Cunha (Specialist Appeals Team)

**DECISION AND REASONS**

1. This is the appeal of Danille Toesha Campbell, a citizen of Jamaica born 8 January 2001, against the decision of the First-tier Tribunal of 17 January 2019, itself brought against the decision of the entry clearance officer to refuse her application to join her mother.
2. The Sponsor is [IM], a British citizen (since 2014). The application was made on the basis that the Appellant's grandmother, her legal guardian since 2002,

was in ill health and could no longer look after her. The application was refused because it was not accepted that evidence such as a photograph of the grandmother sitting in a wheelchair did not establish that she was no longer able to care of the Appellant, and as there was no confirmation of her father's location. There was no evidence of the Sponsor exercising responsibility for the Appellant's welfare beyond sending remittances to Jamaica.

3. The evidence before the First-tier Tribunal was to the effect that the Sponsor had left Jamaica, leaving the Appellant in her grandmother's care, and had visited her in 2005. The Appellant continued to live with her grandmother and her grandmother's carer. There was still no medical evidence available regarding her other. Her half-brother was paying for her grandmother's care but did not live with her. The Sponsor had been trying to bring the Appellant to the UK since 2011, five applications having been refused; over this period she visited her daughter annually. The Sponsor had suffered from cancer at one time and was unable to have her daughter with her over that period. The grandmother had full control of the Appellant's life and continued to do so using the Sponsor's remittances, though the Sponsor had helped choose the Appellant's school, having sent over a list for her to choose from.
4. The First-tier Tribunal dismissed the appeal on the basis that there was no medical evidence available as to her grandmother's well-being and ability to care for the Appellant; there was clearly another carer on the scene assisting the grandmother. There was no evidence of sole responsibility save for her visits to Jamaica, and no evidence of serious and compelling reasons rendering exclusion undesirable.
5. Permission to appeal was granted on 29 March 2019 on the basis that arguably further analysis of the evidence was required.
6. Mr Nwike submitted that the First-tier Tribunal had given inadequate reasons for its conclusions: the Sponsor had stated that she was solely responsible for her child's welfare and there was clear evidence of sole responsibility via the visits, payments and the arrangements for arranging the school to which the mother referred. Ms Cunha submitted that the evidence was simply inadequate, and that there was nothing to confirm that the important decisions were made in the child's life had been made by the mother.

### **Decision and reasons**

7. As I indicated at the hearing, I did not consider any material error of law had been made by the First-tier Tribunal. True it is that its reasons are concise. However, the extent of the reasoning required to lawfully determine an

appeal is heavily dependent on the cogency of the material put before the Judge. Despite the Appellant having been on notice since the entry clearance refusal of the basis of the Secretary of State's thinking, hardly any material was supplied on appeal beyond that which had already been found wanting.

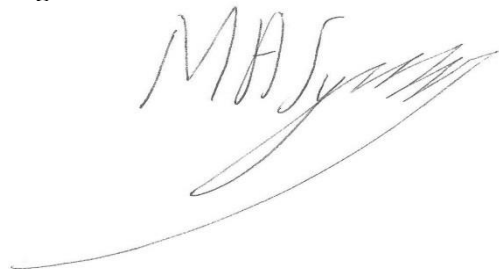
8. This is particularly important vis-à-vis issues such as the Respondent's concern that no corroborative evidence had been supplied that confirmed the grandmother's own care needs. Of course, it can reasonably be predicted that an older person will become less able to care for a child as they both grow older. However, it is equally clear that many elderly individuals *may* be able to continue to provide care, particularly where they have their own carer providing support to them. There was simply no evidence in the Sponsor's witness statement or otherwise as to the decline in the grandmother's health such that one could make a finding that she could no longer care for the Appellant; equally, the role of her own carer is unexplained.
9. In these circumstances, it is unsurprising that the First-tier Tribunal rejected the contention that the Sponsor had not shown that she had exercised "sole responsibility" for the Appellant's upbringing since leaving the UK. Aside from a brief statement in oral evidence that she had assisted in choosing the Appellant's school (though it is not possible to determine whether she had assisted the Appellant, or the Appellant's grandmother, in that exercise), the other evidence relied on, being her regular visits to see her daughter and the financial remittances, does not establish the exercise of sole responsibility.
10. The evidence as to there being *serious reasons for considering* the Appellant's exclusion undesirable is even more scant. It must be presumed that she remains in school or college. There is no suggestion of any problems with her well-being. The decision of the First-tier Tribunal to reject her case on this ground was inevitable.

## Decision

The appeal is dismissed.

Signed

Date 19 May 2019

A handwritten signature in black ink, appearing to read 'M.A.S. Symes', with a long, sweeping underline that extends across the width of the signature.

Deputy Upper Tribunal Judge Symes

