



**Upper Tribunal
(Immigration and Asylum Chamber)**

Appeal Number: HU/14490/2017

THE IMMIGRATION ACTS

**Heard at Field House
on 21 February 2019**

**Decision & Reasons
Promulgated
On 26 February 2019**

Before

DEPUTY UPPER TRIBUNAL JUDGE SHAERF

Between

**JOEDY [C]
(ANONYMITY DIRECTION NOT MADE)**

Appellant

And

ENTRY CLEARANCE OFFICER-SHEFFIELD

Respondent

Representation:

For the Appellant: Mr M Chaudhury Afzul of A-R Law Chambers
For the Respondent: Mr S Kotas of the Specialist Appeals Team

DECISION AND REASONS

1. The Appellant is a Filipino born on 15 June 2000. On 19 October 2017 his application of 7 July 2017 for entry clearance to settle with his mother, a naturalised British citizen, was refused because the Respondent did not consider she had had sole responsibility for him, as required by paragraph 297(i)(e) of the Immigration Rules.
2. The Appellant appealed under s.82 Nationality, Immigration and Asylum Act 2002 as amended and by a decision promulgated on 18 October 2018 Judge of the First-tier Tribunal Peter-John White dismissed the appeal.

3. On 12 November 2018 the Appellant's application for permission to appeal was refused by a Judge of the First-tier Tribunal. The Appellant renewed his application on the same basis and on 14 January 2019 Upper Tribunal Judge Kekic granted permission to appeal.
4. On 19 February 2019 the Respondent lodged a response to the grounds of appeal under Procedure Rules 24. The response did not seek to oppose the Appellant's appeal, noting that no reference in any of the pleadings or decision in the First-tier Tribunal had referred to or relied on the jurisprudence in the relevant authority on sole responsibility, *TD (Paragraph 297(i)(e); "sole responsibility") Yemen [2006] UKAIT 00049* and that consequently there was a material error of law in the decision of Judge White because he had not considered the relevant jurisprudence.
5. At the hearing on 21 February which was attended by the Appellant's mother, his sponsor, the representatives for both parties agreed that the Judge's decision contained the material error of law identified in the Respondent's Rule 24 response. Neither had any views whether it should be further considered in the Upper Tribunal or the First-tier Tribunal. I am similarly persuaded.
6. Having considered all the papers in the Tribunal file I consider that the Appellant might well be advised to seek to submit further evidence in support of his appeal. With this in mind and having regard to s.12(2) Tribunal's Courts and Enforcement Act 2007 and Practice Statement 7.2.b, I consider it appropriate for the appeal to be heard afresh with no findings preserved in the First-tier Tribunal by a judge other than Judge White.

Anonymity

7. There was no request for an anonymity direction and having considered the appeal I find none is warranted.

SUMMARY OF DECISION

The decision of the First-tier Tribunal contains an error of law and is set aside.

The appeal is remitted to the First-tier Tribunal for hearing afresh.

Anonymity direction not made.

Signed/Official Crest

Date 22. ii. 2019

Designated Judge Shaerf
A Deputy Judge of the Upper Tribunal