



Upper Tribunal

(Immigration and Asylum Chamber)

Appeal Number: HU/18870/2019

THE IMMIGRATION ACTS

**Heard at Bradford (Via Teams)
On 21st July 2021**

**Decision & Reasons Promulgated
On the 3rd August 2021**

Before

UPPER TRIBUNAL JUDGE LANE

Between

**ADAMA KALOKOH
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

ENTRY CLEARANCE OFFICER

Respondent

Representation:

For the Appellant: Ms Uwaezuoke

For the Respondent: Mr Howells, Senior Presenting Officer

DECISION AND REASONS

1. The appellant is a female citizen of Sierra Leone who was born on 29 September 2002. She appealed to the First-tier Tribunal against a decision of the Entry Clearance Officer made on 18 October 2019 refusing her application for entry clearance on the basis of her family life with Ms Fatima Sesay, her late mother's half-sister (the sponsor). The First-tier Tribunal, in a decision promulgated on 4 December 2020, dismissed her appeal. The appellant now appeals, with permission, to the Upper Tribunal.
2. At the initial hearing on 21 July 2021, Mr Howells, Senior Presenting Officer who appeared for the Entry Clearance Officer, told me that the respondent now accepts that the First-tier Tribunal materially erred in law and that its

decision should be set aside. The appeal turned on the application of paragraph 297(i)(f) of HC 395 (as amended) ('... serious and compelling family or other considerations which make exclusion of the child undesirable and suitable arrangements have been made for the child's care'). The judge, however, had wrongly concentrated on paragraph 297(i)(e) ('one parent is present and settled in the United Kingdom or being admitted on the same occasion for settlement and has had sole responsibility for the child's upbringing') which, as the sponsor is not the parent of the appellant, had never been in contention between the parties. The judge deals with paragraph 297(i)(e) only at [60] and then, in the opinion of both parties, inadequately.

3. I agree with Mr Howells that the decision is flawed. If the irrelevant paragraphs dealing with 'sole responsibility' are discounted, the analysis on the only matter in contention ('serious and compelling family or other considerations') is patently insufficient. Accordingly, I allow the appeal. there will need to a new fact-finding hearing which is better conducted in the First-tier Tribunal. Ms Uwaezuoke, who appeared for the appellant, raised the matter of the appellant giving evidence remotely from Sierra Leone at the next hearing. Such evidence may assist the next Tribunal and I draw the attention of the First-tier Tribunal to the request that facilities are arranged for the appellant to give evidence remotely. It would be helpful if the appellant's representative were to renew that request directly to the First-tier Tribunal before the next hearing date is fixed.

Notice of Decision

The decision of the First-tier Tribunal is set aside. None of the findings of fact shall stand. The appeal is returned to the First-tier Tribunal for that Tribunal to remake the decision following a hearing *de novo*.

LISTING DIRECTIONS : Return to First-tier Tribunal (hearing centre appropriate for sponsor's address); 1.5 hours; not Judge Lingam; first available date; no interpreter; NB: arrangements should be made for appellant to give evidence remotely from Sierra Leone, if possible.

Signed
Upper Tribunal Judge Lane

Date 21 July 2021