



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2023-001099

First-tier Tribunal No: EA/08207/2022

THE IMMIGRATION ACTS

Decision & Reasons Issued:
On 30 October 2023

Before

UPPER TRIBUNAL JUDGE NORTON-TAYLOR

Between

WAWA ELISABETH OPOH
(NO ANONYMITY ORDER MADE)

Appellant

and

ENTRY CLEARANCE OFFICER

Respondent

Representation:

For the Appellant: Unrepresented

For the Respondent: Ms S Rushforth, Senior Presenting Officer

Heard at Cardiff Civil Justice Centre on 5 October 2023

DECISION AND REASONS

Introduction

1. The Appellant appeals against the decision of First-tier Tribunal Judge Thorne who, by a decision made without a hearing, dismissed the Appellant's appeal against the Respondent's refusal of her EUSS application. The sole ground of refusal raised by the Respondent was the assertion that the Appellant and Sponsor (the Appellant's claimed daughter) were not in fact related. Having lodged the appeal the

Appellant provided a bundle of documents including a birth certificate in French and an accompanying certified translation.

Decision of the First-tier Tribunal

2. In a very brief decision the judge stated at paragraph 10 that he was not satisfied that the Sponsor was related to the Appellant as claimed, or indeed at all. In relation to the birth certificate the judge made specific reference to its translation and found that it was unclear whether it had been provided by a “reliable translation service” and that the translation appeared to be of “low quality”. The judge was of the view that the Respondent had not been given the opportunity to verify the document’s accuracy or authenticity. He believed that no other documentary evidence in relation to the claimed relationship had been provided.

Grounds of appeal

3. The Appellant, who has been unrepresented throughout, provided grounds of appeal which in essence asserted that the judge had either misunderstood the evidence or had failed to explain why he believed the original document and its translation to be unreliable.
4. Permission was granted by First-tier Tribunal Judge Sills in a decision dated 29 March 2023.

The hearing

5. At the hearing I indicated my concerns with certain aspects of the judge’s decision. Ms Rushforth, in what I regard as being an entirely fair and appropriate concession, accepted that the judge had failed to deal adequately with the birth certificate. She accepted that this constituted a material error of law and that the judge’s decision should be set aside.

Conclusions

6. Although appropriate caution must be exercised before interfering with a decision of the First-tier Tribunal, in my judgment it is clear that the judge did materially err in law. He provided no reasons as to why he effectively found that the translation

had not been conducted by a reliable service and failed to explain why he believed it to be of low quality.

7. The translation itself was stamped, confirming that it had been undertaken by “World Translation and Interpretation Services” in Accra, Ghana. There is nothing on the face of the translation to indicate that the company was in some way unreliable, or that its work was of “low quality”; at least the judge did not explain what he meant by the use of that term. In addition, but of less significance, is the fact that there were letters from both the Appellant and the Sponsor attesting to the claimed relationship which the judge did not deal with. Although these letters were not independent documents, they nonetheless constituted evidence which should have been addressed.
8. In light of the above I set the judge’s decision aside.

Re-making the decision

9. Ms Rushforth fairly and appropriately suggested that I should go on and re-make the decision in this appeal based on the evidence before me. I explained to the Sponsor why this might be the most efficient means of dealing with her mother’s case and she agreed that I should take this course of action.
10. Ms Rushforth relied on the reasons for refusal letter and submitted that the birth certificate and its translation was the only documentary evidence relating to the claimed relationship and that in all the circumstances it was insufficient. Ms Rushforth raised a concern as to the date of the birth certificate, that being 1 March 2022. The Sponsor explained that the date related to the point in time when the relevant authorities issued the birth certificate following a request. When asked about this in a little more detail by Ms Rushforth, the Sponsor explained that in France people were not given an original certificate; it lay on file with the relevant authorities and copies were given if and when necessary.
11. In re-making this decision I have had regard to all the evidence before me. I appreciate that it is somewhat limited in nature. However, I have no particular reason to conclude that either the Appellant or the Sponsor have been untruthful in

respect of the evidence put forward at all stages, including what the Sponsor told me at the hearing. There are no external reasons as to why the Sponsor's word should be doubted to a significant extent.

12. I conclude that the birth certificate is a reliable document, as is the certified translation relating thereto. I accept the Sponsor's evidence as to the circumstances in which it was issued with reference, for example, to the date of 1 March 2022. It is right that this is the only wholly independent evidence going to the claimed relationship, but in my view it is, on the balance of probabilities, sufficient to establish the claimed relationship. I therefore find that the Appellant is the mother of the Sponsor.
13. As confirmed by the reasons for refusal letter and Ms Rushforth at the hearing, this was the only live issue before me in respect of re-making of the decision in this case.
14. In light of my core finding of fact it follows that the relevant criteria under the EUSS have been satisfied and that this appeal must be allowed.

Notice of Decision

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

I re-make the decision in this case by allowing the Appellant's appeal.

H Norton-Taylor
**Judge of the Upper Tribunal
Immigration and Asylum Chamber**

Dated: 27 October 2023