IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2024-000520

First-tier Tribunal Nos: EA/50354/2023
LE/01976/2023

THE IMMIGRATION ACTS

Decision & Reasons Issued:
On 6 August 2024

Before

DEPUTY UPPER TRIBUNAL JUDGE METZER

Between

The Secretary of State for the Home Department

Appellant

and

Hamza Quaye
(NO ANONYMITY ORDER MADE)

Respondent

Representation:
For the Appellant: Ms Amrika Nolan, Home Office Presenting Officer
For the Respondent: No representative

Heard at Field House on 25 July 2024

DECISION AND REASONS

1. This is an appeal by the Secretary of State for the Home Department, who I shall refer to as "the SSHD" for simplicity's sake, who is appealing against the Decision set out below relating to who I will call "the appellant" who is Ghanian, born on the 4 April 2003. The sole issue in relation to this appeal was whether the sponsor is the appellant's father.

2. In the Decision dated 8 January 2024, First-tier Tribunal Suffield-Thompson ("the first Judge"), allowed the appeal and found that the appellant was related to the sponsor. That Decision was appealed and it came before me on 30 April 2024 when I allowed the appeal against the first Judge. The SSHD had essentially appealed on three grounds, which amounted effectively to one ground, as to

whether the first Judge considered the evidence properly in relation to the interpretation of the relevant CPIN and it was incomplete in relation to what was required under the CPIN; secondly whether there was sufficient evidence to meet the concerns under Section 10 of the CPIN and thirdly, there was a specific finding that the DNA evidence, which is not required, but was not produced because the respondent stated Muslims are prohibited from obtaining DNA for religious reasons.

3. Essentially, the SSHD's appeal boiled down to a challenge to the fact the first Judge had failed to give any or any credible reasons as to how it was that he found the respondent to be credible in relation to the ultimate question, namely whether he was the biological son of the sponsor. Having considered the matter, I considered the decision of the first Judge contained material errors of law as there was insufficient explanation as to how he dealt with the relevant CPIN and made leaps in findings in relation to the interpretation of CPIN and did not explain how he was able to make a finding in relation to the failure to obtain DNA evidence for religious reasons. In the circumstances, I found that the decision of the first Judge contained material errors of law and the decision was set aside.

4. However, in reaching that decision there were preserved findings which both parties agreed was appropriate. In particular, the findings as to how and when the birth certificate was registered; how it was that the appellant, having been born, did not need a birth certificate and when he needed to get one it was issued; in relation to what the sponsor, the appellant and the appellant's mother did in relation to going to the city to hand over the ID cards; in relation to the system now becoming digitalised and that the sponsor did not produce DNA evidence and as a Muslim it was against his religion in any event. I also noted that the first Judge found the sponsor to be honest and credible, which of course does not determine the matter because I have to consider the matter again but was certainly within the first Judge's domain to consider. Although, as I have indicated, the only preserved findings are those set out before and I need to consider the question of credibility again. The sponsor appeared before me and was asked, very properly, questions on behalf of the SSHD, as I indicated would be appropriate in terms of the hearing coming back for reconsideration. Having heard the evidence of the sponsor, I accept that the birth certificate of the appellant was obtained in 2003. At that time, the sponsor was Ghanian and the birth certificate was lodged with the Spanish Embassy and I accept that when it was sought to be obtained in 2018, by that time the sponsor was now Spanish, but it was not possible to obtain again that birth certificate. In the circumstances, a new birth certificate was applied for and was obtained.

5. Ms Nolan, on behalf of the SSHD, indicated that she noted that there were discrepancies. However, I do not regard those discrepancies as being relevant in terms of the sponsor's credibility. I accept his evidence as to the authenticity of the new document and that the document dated 8 February 2023, referring back to the date of registration, being 1 February 2023, was an administrative decision, taken in 2023 but did not suggest that there had not been a previous birth certificate lodged, as was required within the first year of the appellant's birth in Ghana, as required under the relevant CPIN. Similarly, I do not regard any apparent inconsistencies in relation to numbering as, in any way, adversely reflecting upon the sponsor's credibility. I also accept that the sponsor produced the cards that he indicated he did, both in 2003 and subsequently when there was a re-registration more recently. In all the circumstances, I find that the sponsor is an honest and credible witness and that the appellant has established

to the relevant standard, the burden being upon him to show that he and the appellant are related as father and son and in the circumstances, I remake this decision and allow the appeal.

DECISION

The decision is re-made and the appeal is allowed.

Anthony Metzer KC

Deputy Judge of the Upper Tribunal
Immigration and Asylum Chamber

29 July 2024