

R (on the application of Iyieke) (Appellant) v Secretary of State for the Home Department (Respondent)

Case ID: 2022/0168

Case summary

Issue

Whether periods of time the appellant spent in the UK after overstaying a visa should be considered as time in the UK for the purpose of establishing 10 years' continuous lawful residence for an application for indefinite leave to remain in the UK. During the ten year period, the appellant had periods with leave and without leave to remain.

Facts

The appellant is a Nigerian national who entered the UK on 13 February 2011 on a student visa and remained in the UK after that visa expired, thus becoming an overstayer on 10 August 2014. He applied for leave to remain on compassionate grounds in 2014 and on grounds of private and family life in 2015. On 11 August 2017, he was granted leave to remain on human rights grounds until 11 February 2020, later extended to 30 July 2022.

On 17 February 2021, the appellant, having completed 10 years of residence in the UK, applied for Indefinite Leave to Remain under para 276B of the Immigration Rules - the long residence rule.

The respondent refused the application and the appellant judicially reviewed that decision.

The Upper Tribunal refused permission to bring the judicial review.

The Court of Appeal granted permission to bring the claim but dismissed the substantive judicial review. The appellant now appeals to the Supreme Court

Judgment appealed

[\[2022\] EWCA Civ 1147](#)

Parties

Appellant(s)

Victormills Onyekachi Iyieke

Respondent(s)

Secretary of State for the Home Department

Appeal

Justices

Lord Reed, Lord Kitchin, Lord Sales, Lord Burrows, Lord Stephens

Hearing start date

7 June 2023

Hearing finish date

8 June 2023

Watch hearing

7 June 2023 [Morning session](#) [Afternoon session](#)

8 June 2023 [Morning session](#) [Afternoon session](#)