



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

Appeal Number: IA507192014

THE IMMIGRATION ACTS

Heard at Field House

**Decision &
Promulgated**

Reasons

On 9 May 2016

On 24 May 2016

**Determination given orally at the
hearing.**

Before

UPPER TRIBUNAL JUDGE MCGEACHY

Between

**MR DAVID DELA SEGLAH
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Waheed, Counsel instructed by Solomon Shepherd Solicitors

For the Respondent: Mr L Tarlow, Home Office Presenting Officer

DECISION AND REASONS

1. The appellant is a citizen of Ghana, who asserts that he entered Britain in 1997. He appeals against a decision of Judge of the First-tier Tribunal Andonian who, in a determination promulgated on 28 September 2015

dismissed his appeal against a refusal of leave to remain on long residence grounds. The assertion in the grounds of appeal was that the judge should have applied the “old rules” which would have entitled the appellant to leave to remain after 14 years, despite the fact that the decision in this case had been made long after the coming into force of the “new rules” in July 2012. The argument appears to be based on the fact that the appellant had made an application in 2009 which had been refused the following year.

2. I consider there is no merit in this appeal. This is an appeal of a man who came here, remained illegally and was removed. Notwithstanding the fact that that had happened, he then returned to Britain and again lived here without authority. An application for leave to remain was refused in 2010 and he still did not leave. Further representations were made which resulted in the decision made in December 2014. The reality is that given the date of the decision this is a case which falls squarely under the guidance in **Singh and Khalid** [2015] EWCA Civ 74 and the “new rules” which came into force in 2012 are the relevant rules. There is simply no possible argument that somehow the decision in 2010 was being challenged in this appeal. There is nothing to show that the decision in 2010 was in any way unreasonable or not open to the Secretary of State and indeed it could have been challenged at the time but it was not challenged.
3. The judge in considering the Article 8 issues did properly apply the law, he was correct to refer to the terms of Section 117. The fact that there are some factors under Section 117B which are in the applicant’s favour is not determinative and that is clear from the judgment in **Bossade [2015]UKUT 415 (IAC)**. The clear guidance in Section 117 is that private life built up when an individual is living in Britain without authority should not be taken into account when considering the proportionality of removal.
4. The decision of the Judge of the First-tier was entirely open to him and there was no material error of law therein.

Signed

Date 24th May 2016

Upper Tribunal Judge McGeachy