



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

Appeal Number: HU/04824/2018

THE IMMIGRATION ACTS

Field House

On 28th January 2019

**Decision & Reasons
Promulgated**

On 6th February 2019

Before

**UPPER TRIBUNAL JUDGE PITT
DEPUTY UPPER TRIBUNAL JUDGE STOREY**

Between

**MOHAMED SHEIK SHIDAD ISMAAEL
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr G O’Ceallaich, Counsel, instructed by Maliks and Khan Solicitors

For the Respondent: Mr S Whitwell, Senior Home Office Presenting Officer

DECISION AND REASONS


1. This is an appeal against the decision dated 29 October 2018 of First-tier Tribunal Judge NMK Lawrence which refused an Article 8 ECHR appeal.
2. The appellant’s claim concerned whether the actions of previous advisers, without his knowledge, had led to him becoming an overstayer and so unable to show 10 years’ continuous lawful residence. The First-Tier Tribunal found that the applicant was complicit in the actions of his

previous advisers. The applicant appealed where this had never been a point taken against him by the respondent.

3. At the hearing, the respondent provided a copy of a Rule 24 notice dated 4 January 2019 which accepted that the decision of First-Tier Tribunal Lawrence disclosed material error on a point of law and agreed that the appeal should be remitted to the First-Tier Tribunal for re-making. Mr Whitwell for the respondent confirmed that this was the position as of the date of the hearing before us.
4. In those circumstances, having considered the grounds of appeal, decision of the First-Tier Tribunal and other documentation in this matter, we find an error on a point of law, set aside the decision of First-Tier Tribunal Lawrence and remit the appeal to be re-made *de novo* in the First-Tier Tribunal.

Notice of Decision

The decision of the First-tier Tribunal discloses an error on a point of law and is set aside to be remade *de novo* in the First-tier Tribunal.

Signed: 

Date: 30 January 2019

Upper Tribunal Judge Pitt