



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2023-004442

First Tier No.s: HU/50694/2020
IA/01800/2021

THE IMMIGRATION ACTS

Decision & Reasons Issued:
On 18 December 2023

Before

UPPER TRIBUNAL JUDGE LANE
DEPUTY UPPER TRIBUNAL JUDGE KELLY

Between

SWI

(ANONYMITY ORDER MADE)

and

Secretary of State for the Home Department

Appellant

Respondent

Representation:

For the Appellant: Mr Holmes
For the Respondent: Mr Diwnycz, Senior Presenting Officer

Heard at Phoenix House (Bradford) on 11 December 2023

DECISION AND REASONS

1. The appellant is a citizen of Iraq, who was born on 19 November 1989. He arrived in the United Kingdom on 29 August 2003 and has remained living here since that date. By a decision dated 9 October 2020, the respondent refused the appellant's application for leave to remain on human rights grounds. The appellant appealed to the First-tier Tribunal, which, in a decision dated 28 June 2021, dismissed the appeal. The appellant now appeals, with permission, to the Upper Tribunal.
2. Granting permission, Judge O'Brien wrote:

The Judge heard evidence from a child with whom he appeared to accept that the Appellant had some form of relationship, albeit one that the Judge did not accept was parental or quasi-parental in nature but instead was one which the Appellant had exaggerated. However, the Judge does not appear to address the child's own evidence (or

the child's mother's) about the nature of her relationship with the Appellant. It is arguable that the Judge thereby failed properly to assess the case under s55 and/or failed to give adequate reasons for why the Appellant's removal would not be contrary to the child's best interests.

3. At the initial hearing on 11 December 2023, the representatives for the parties told us that the Secretary of State now agrees that the judge had erred in law for the reasons outlined by Judge O'Brien. We were asked to set aside the First-tier Tribunal's decision and to remake the decision allowing the appeal. We agree that we should do so, noting that the appellant has now been living continuously in the United Kingdom for more than 20 years.

Notice of Decision

We set aside the decision of the First-tier Tribunal. We have remade the decision. The appellant's appeal against the decision of the Secretary of State dated 9 October 2020 is allowed on human rights grounds.

C. N. Lane

Judge of the Upper Tribunal
Immigration and Asylum Chamber

Dated: 11 December 2023