



**IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM
CHAMBER**

Case No: UI-2024-000282
On appeal from: HU/55855/2022

THE IMMIGRATION ACTS

Decision & Reasons Issued:

On 23rd of February 2024

Before

UPPER TRIBUNAL JUDGE GLEESON

Between

**RABBI MBUTA KAKOMA
(NO ANONYMITY ORDER MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Heard at Field House on 19 February 2024

DECISION AND REASONS

Introduction

1. The appellant challenges the decision of the First-tier Tribunal dismissing his appeal against the respondent's decision on 18 August 2022 to refuse him leave to remain on private life grounds pursuant to paragraph 276ADE of the Immigration Rules HC 395 (as amended) alternatively outside the Rules by reference to Article 8 ECHR. He is a citizen of the Democratic Republic of the Congo.
2. Permission to appeal was granted by First-tier Judge Curtis on the basis that the First-tier Judge's decision was perverse. The First-tier Judge had recorded the evidence of Ms Sara McGuinness and Mr Ashley Harrington, but did not explain in his decision why, in the light of that evidence, he found that the appellant had not been continuously resident in the UK for more than 20 years.

3. Mr Harrington's evidence, which the Judge accepted was credible, was that he had met the appellant at least 5 times a year since 2001 and that the longest gap in that period was 8 weeks. Ms McGuinness' evidence was that she had seen the appellant most weeks, sometimes more than once, except when she herself was outside the country.
4. By a Rule 24 Reply dated 12 February 2024, the respondent stated that the grant of permission to appeal was not opposed and invited the Upper Tribunal to redetermine the appeal. The respondent noted that the findings of the First-tier Judge at [29] and [31] were contradictory and that [32] was ambiguous.
5. I am satisfied that the appropriate course is for the decision of the First-tier Tribunal to be set aside and remade in the First-tier Tribunal.

Notice of Decision

6. For the foregoing reasons, my decision is as follows:

The making of the previous decision involved the making of an error on a point of law.

I set aside the previous decision. The decision in this appeal will be remade in the First-tier Tribunal.

Judith A J C Gleeson
Judge of the Upper Tribunal
Immigration and Asylum Chamber

Dated: 19 February 2024