



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

Appeal Number: DA/01476/2014

**THE IMMIGRATION ACTS**

**Heard at Glasgow  
on 8 April 2015**

**Determination issued  
On 13 April 2015**  
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**Before**

**UPPER TRIBUNAL JUDGE MACLEMAN**

**Between**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Appellant

**and**

**MELVIN LUIS CAVALLO**

Respondent

Representation:

For the Appellant: Mrs M O'Brien, Senior Home Office Presenting Officer

For the Respondent: Mr H Ndubuisi, of Drummond Miller, Solicitors

**DETERMINATION AND REASONS**

1. The parties are as described above, but the rest of this determination refers to them as they were in the First-tier Tribunal.
2. The appellant is a citizen of Italy, born on 3 January 1989. He was convicted on 4 and sentenced on 31 March 2014 to 12 months' imprisonment for assault to severe injury and robbery. For reasons

explained in a letter dated 16 July 2014 the respondent decided to deport him under the Immigration (European Economic Area) Regulations 2006.

3. The appellant claims to have been in the UK since 2006. The respondent accepted that there was evidence that the appellant was in the UK in 2008 when named on his son's birth certificate and at the time of various criminal convictions, but not that he was continuously resident for 5 years, or exercising treaty rights, or had acquired the right of permanent residence. The question was whether his deportation was warranted on grounds of public policy or public security. The respondent held that it was, and that even if he had permanent residence the requirement for serious grounds of public policy would have been satisfied.
4. A panel of the First-tier Tribunal comprising Judge P A Grant-Hutchison and Mr A E Armitage allowed the appellant's appeal by determination promulgated on 22 October 2014. The panel was satisfied by evidence from witnesses of the appellant's "history of residence and his activities" that he had the permanent right of residence. The panel found the contents of the social work report to have been "largely contradicted by the persuasive evidence of the appellant's ex-partner" and that there were not serious grounds of public policy for deporting him.
5. The SSHD's grounds of appeal questioned whether part of the determination was missing. It has now been ascertained that it is complete as intended. There is misnumbering, paragraph 23 being followed in error by paragraph 34. The remaining criticism by the SSHD is that the determination is inadequately reasoned, and speculative. The grounds do not attack the finding on the right of permanent residence.
6. Mrs O'Brien pointed out that the panel had preferred a risk assessment which came from a lay and partial witness to a professional report. That required considerable justification. The reasons given did not follow the relevant aspects of regulation 21 and speculated as to the future. She submitted that the reasoning in the determination (contained at paragraphs 21 and 22) is inadequate to explain why the appeal succeeded and that the determination should be set aside.
7. In a rule 24 response, the appellant argues that the panel did not minimise but recognised the appellant's offending, was entitled to prefer evidence from the appellant's partner to the social work report, gave reasons for doing so, and did not err in law.
8. I prefer that line of submission. The panel had the significant advantage of hearing the oral evidence from the appellant and his witnesses. They were entitled to find that credible. They did not too readily accept all they were told, sensibly rejecting the appellant's version about his crime. They were entitled to find that "although a brutal incident it can be categorised as a one off event". They did not have to give any lengthier reasons to justify their overall judgement that serious grounds of public policy were not established.

9. The determination of the First-tier Tribunal shall stand.
10. No anonymity direction has been requested or made.

A handwritten signature in black ink that reads "Hugh Macleman". The signature is written in a cursive style with a large, stylized initial 'H'.

8 April 2015  
Upper Tribunal Judge Macleman