



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

Appeal Number: DA/01843/2014

THE IMMIGRATION ACTS

**Heard at Field House
On 4 March 2016**

**Decision & Reasons Promulgated
On 6 June 2016**

Before

UPPER TRIBUNAL JUDGE GILL

Between

**AYAO KOUDIABO
(ANONYMITY ORDER NOT MADE)**

Appellant

And

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr E Waheed, of Counsel, instructed by Solomon Shepherd Solicitors.
For the Respondent: Mr. S Staunton, Senior Home Office Presenting Officer

DECISION AND REASONS

1. By its Directions issued to the parties on 8 February 2016, the Upper Tribunal informed the parties, for the reasons given in the Directions, that it was of the preliminary view:
 - i. that the decision of the First-tier Tribunal should be set aside on the ground that it materially erred in law in dismissing the appellant's appeal on asylum, human rights and under the Immigration Rules;
 - ii. that it should proceed to re-make the decision on the appellant's appeal against the decision to refuse to revoke the deportation order; and
 - iii. that the appellant's appeal against the decision to refuse to revoke the deportation order should be allowed on the ground that the decision to refuse to revoke the

deportation order is not in accordance with the law, in that, it is unlawful for the reasons given at para 1 of the Directions.

2. The parties were allowed ten working days within which to object to the Upper Tribunal's proposal. Neither party objected.
3. This case was listed for hearing on 4 March 2016, inadvertently, it would appear. At the hearing, Mr Waheed and Mr Staunton agreed to the Upper Tribunal's proposal.
4. Given the terms of the respondent's letter dated 1 December 2015 by which she accepted, inter alia, that the deportation order signed on 27 January 2004 is unlawful and that as a result, the decision of 15 September 2014 to refuse to revoke the deportation order is unlawful, I am satisfied that the decision of Judge of the First-tier Tribunal R Callender Smith should be set aside on the ground that he material erred in law in dismissing the appellant's appeal on asylum, human rights and under the Immigration Rules. None of his findings shall stand.
5. I therefore proceed to re-make the decision on the appellant's appeal against the decision to refuse to revoke the deportation order.
6. For the reasons given above, the decision to refuse to revoke the deportation order is not in accordance with the law. The appellant's appeal against the refusal to revoke the deportation order is therefore allowed but only on this ground. The withdrawal of the deportation order and the decision to refuse to revoke the deportation order means that the respondent will now need to consider the appellant's position in the UK.

Signed:
Upper Tribunal Judge Gill

Date: 8 March 2016