



UPPER TRIBUNAL  
(IMMIGRATION AND ASYLUM CHAMBER)

APPEAL NUMBER: IA/45056/2014

**THE IMMIGRATION ACTS**

Heard at: Field House  
On 18<sup>th</sup> May 2016

Decision & Reasons Promulgated  
On 7<sup>th</sup> June 2016

Before

Deputy Upper Tribunal Judge Mailer

Between

SECRETARY OF STATE FOR THE HOME DEPARTMENT

**Appellant**

and

MR SINAN IBRAHIM HAJI  
NO ANONYMITY DIRECTION MADE

**Respondent**

**Representation**

For the Appellant: Mr S Whitwell, Senior Home Office Presenting Officer  
For the Respondent: Mr S Knight, counsel (instructed by Wilson Solicitors LLP)

**DETERMINATION AND REASONS**

1. I shall refer to the appellant as the secretary of state and to the respondent as 'the claimant'.
2. The claimant is a national of Kenya, born on 2 October 1996. His appeal against the decision of the secretary of state dated 4 November 2014 refusing him leave to remain in the UK under the Immigration Rules was allowed by the First-tier Tribunal Judge in a decision promulgated on 8 September 2015.
3. On 6 January 2016, the secretary of state was granted permission to appeal against that decision on the basis that there was a lack of reasoning; alternatively, that the reasoning was inadequate and ignored the principles set out in the cases upon which the First-tier Tribunal sought to rely.

4. On 31 March 2016, I adjourned the hearing of the appeal as Mr Knight was unavailable. He had been the claimant's counsel before the First-tier Tribunal. In his skeleton argument on behalf of the claimant, Mr Knight contended that by the time the appeal is heard, the claimant will have satisfied the requirements of paragraph 276ADE(1)(v) of the Immigration Rules, namely, that as at the date of application, the applicant must be aged 18 years or above and under 25 years and has spent at least half of his life living continuously in the UK (discounting any period of imprisonment). There is no discretion.
5. At the hearing on 18 May 2016, I was informed at the outset that the secretary of state accepts that the claimant has satisfied the relevant requirements under paragraph 276ADE(1)(v) of the Rules. In the circumstances the secretary of state is to grant to the claimant a period of 30 months' discretionary leave under the Rule.
6. In the circumstances the secretary of state applied to withdraw her appeal. It was jointly submitted that it is convenient in the interests of time and cost to dispose of the case in this manner. In withdrawing her appeal the secretary of state placed on record that she was not thereby making any concession as to the soundness or otherwise of the decision of the First-tier Tribunal.
7. In accordance with paragraph 39 of the Tribunal Procedure (Upper Tribunal) Rules 2008, the Upper Tribunal may at the request of the parties, but only if it considers it appropriate, make a consent order disposing of the proceedings and making such other appropriate provision as the parties have agreed.
8. Having regard to the joint submissions I granted permission to the secretary of state to withdraw her appeal against the decision of the First-tier Tribunal in case number IA/45056/2014.
9. Mr Knight prepared a draft order the contents of which Mr Whitwell accepts. The draft order is retained in the Tribunal's file. The preamble to the draft notes that it is now accepted by the secretary of state that the claimant has satisfied the relevant requirements under paragraph 276ADE(1)(v) of the Immigration Rules. It is further recorded that the secretary shall accordingly as soon as reasonably practicable grant a period of 30 months' discretionary leave to the claimant under paragraph 276ADE(1)(v) of the rules.
10. It is also stated that it is the intention of the claimant to make further submissions to the secretary of state as to whether he should also be granted indefinite leave to remain.
11. Having regard to the history of the matter since the decision promulgated by the First-tier Tribunal, I find that it is convenient in the interests of time and cost to dispose of the case in this manner. In granting permission to the secretary of state to

withdraw her appeal, I note that she is making no concessions as to the soundness or otherwise of that decision.

**By consent it is ordered that**

1. Permission is granted to the secretary of state to withdraw her appeal against the decision of the First-tier Tribunal (Immigration and Asylum Chamber) in appeal number IA/45056/2014, promulgated on 8 September 2015.
2. No order is made as to costs.

Signed

Date 6 June 2016

Deputy Upper Tribunal Judge C R Mailer