



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

Appeal Number: HU/09167/2015

THE IMMIGRATION ACTS

Heard at Field House

**Decision & Reasons
Promulgated**

On 26 October 2017

On 31 October 2017

**Before
UPPER TRIBUNAL JUDGE JORDAN**

Between

The Secretary Of State For The Home Department

Appellant

and

Raval

Respondent

Representation:

For the Secretary of State: Mr C. Bates, Home Office Presenting Officer,
instructed by

For the respondent: Mr P. Lewis Counsel instructed by Kidd Rapinet,
Solicitors

DECISION ON ERROR OF LAW

1. The Secretary of State appeals against the determination of First-tier Tribunal Judge Majid. However, for the sake of continuity, I shall refer to Mr Raval as the appellant as he was before the First-tier Tribunal.
2. Regrettably, the parties accepted that the determination could not stand.
3. This is one of 4 cases in my list today all of which concerned determinations made by First-tier Tribunal Judge Majid (HU/08143/2015; HU/08745/2015; HU/09167/2015; IA/45841 & 48501/2014).

4. In each of the cases the appeal was determined in the appellant's favour to the effect that the Judge was persuaded that the appellant came within the relevant Immigration Rules sometimes by reference to having the benefit of a discretion (which the Judge did not possess).
5. All the determinations are strikingly similar. The bulk of the determination contains general comments, touching upon the law but in terms that no specific legal thread is identified that bears upon the appellant's case. Some of it is anecdotal [paragraph 20] and some is simply wrong [paragraphs 16]. The effect is that I cannot with confidence rely upon the process of decision making as a whole.
6. The determination does not adequately reveal the nature of the application or the respondent's approach to it. The legal framework is not referred to. We would scarcely know that this was a claim made by the applicant for further leave to remain on the basis that removal would violate his protected private life; that it was governed by Appendix FM and paragraph 276ADE(1) and that the applicant in order to comply with the public interest criteria had to establish a continuous period of 10 years lawful leave and that 'continuous residence' was defined in paragraph 276A(a). The Secretary of State relied upon a period of 49 days after the appellant's prior leave had ceased as breaking the continuity. Neither the presence of his partner nor his son (neither of whom were British subjects) permitted the appellant to remain under the so-called partner or parent route.
7. Regrettably, the First-tier Tribunal Judge failed to write a determination that properly dealt with the legal and factual issues he was tasked to resolve. I set aside the decision and remit the matter to the First-tier Tribunal for it to be remade.

DECISION

The Judge made an error on a point of law and I set the determination aside. I remit the appeal to the First-tier Tribunal to enable the decision to be re-made.

ANDREW JORDAN
JUDGE OF THE UPPER TRIBUNAL
26 October 2017

