Upper Tribunal
(Immigration and Asylum Chamber) **Appeal Number: PA/09367/2017**

THE IMMIGRATION ACTS

Heard at the Royal Courts of Justice	**Decision and Reasons Promulgated**
On 9 April 2018	**On 25 April 2018**

Before

UPPER TRIBUNAL JUDGE KEKIĆ

Between

DAVID GATSINZI
(ANONYMITY ORDER NOT MADE)

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms J Bond, Counsel instructed by Freemans Solicitors
For the Respondent: Mr T Wilding, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. The appellant is a Rwandan national born on 22 February 1992. He is the subject of a deportation order made against him under s.32(5) of the 2007 Act on 15 October 2014 and he appeals the refusal of his protection and human rights claim.

2. The appeal was heard by First-tier Tribunal Judge Rowlands at Harmondsworth on 23 November 2017 and dismissed by way of a determination promulgated on 12 December 2017. On 1 March 2018, following a hearing on 26 February 2018, I set aside the determination in so far as it related to article 8. Full reasons are provided in my determination of that date but essentially, the difficulty with the determination was that the judge made no clear findings on the issues of lawful residence, social and cultural

integration and whether there would be significant obstacles for the appellant on re-integration to the home country. There was also no meaningful examination of the circumstances the appellant would face if deported to Rwanda.

The Hearing

3. The appellant was produced for the hearing. He gave his evidence in English. He confirmed the contents of his witness statement and said he had no family in Rwanda and was not in contact with anyone there. The appellant said he had no passport; he had lost it and had not applied for a new one. He had not been in contact with the Rwandan authorities in the UK at any time but he was aware that the respondent had been.

4. Mr Wilding then cross examined the appellant. In response to questions put to him, the appellant said that if released he wanted to undertake "youth work". He was asked if he had any qualifications and he said he had. He had decided to work in this area when he was 18 and he obtained his qualifications at the age of 22 (he was now 26). He said he had been in prison because he made the wrong choices. He had wanted to start work when he came out of prison before but he was not allowed to work.

5. The appellant said that he had not thought about working in hotels or restaurants in Rwanda. He had not undertaken any courses in prison as there was nothing there to help him in the way of rehabilitation. He said he needed to obtain some experience by volunteering. He had been to a youth club in Brixton and they helped him. That completed cross examination.

6. In re-examination. Ms Bond referred the appellant to the certificates in his bundle. He was silent.

7. In response to questions I put for clarification, the appellant said that he could not recall when he had lost his passport. It may have been when he was 17 or 18. It was a Rwandan passport and was the only one he had ever had. His father probably obtained it for him. When asked what qualifications the appellant had for youth work, he replied he had a level 1 qualification in Maths, English and construction. He had undertaken a three-month course in Brixton in which he had been required to organise daily activities for children aged 8-16 and plan day trips. He said his convictions would not prevent him from working with children. Those were my questions. Neither party had any questions arising.

8. I then heard evidence from the appellant's twin brother, Gerald. He was asked how he would support his brother and he replied that he would be there for him. He said he worked in the scaffolding industry and could always obtain employment for him, even with his criminal record. He said that he was in the process of looking for housing and the appellant could live with him.

9. The witness said he did not have a passport. His passport had expired and he applied in 2012 for a new one at the Embassy for himself and his brother but these were refused because of the lack of information about their birth place and date. He said he had no family that he knew of in Rwanda and was not in contact with anyone there.

10. In cross examination the witness said that his brother had lived with him in the past. He could not remember when but they had been living together at the time of the applicant's last arrest. It was pointed out to him that he had not been a good influence on the appellant previously and he was asked why that should be different now. The witness said he would be living in a different area where the appellant would not be in contact with his old friends who were in the Clapham Junction area. When it was put to him that that was close to Brixton where the appellant wanted to work, he replied that most of the friends had been arrested and so were not in the vicinity. The witness was looking for housing around Croydon and Romford. Nothing had been agreed yet. He said that if the appellant could work, that would help as before money was an issue because the appellant was not allowed to work. He acknowledged that the appellant would have a problem finding work with children because of his criminal record.

11. The witness stated that they last heard from their father after he had returned to Rwanda in 2010-2011. He said he might still be in Rwanda. They did not know. He was asked why his step mother had not put in evidence in support of the appeal. The witness replied it was difficult for her because she had young children. She had, however, agreed to support him from "outside".

12. In re-examination, the witness said his step mother was Ugandan.

13. I then asked the witness why, if he and the appellant had discussed the plan of employment in the building industry, the appellant had failed to mention it in his evidence. The witness replied that it would be good for him if he did find social work but otherwise he could get work in scaffolding. He said he had never had problems with the police. There were no questions arising. That completed the oral evidence.

14. I then heard submissions. Mr Wilding relied on the refusal letter and submitted that the appellant could not establish that he met the requirements

of paragraph 399A. Whilst the respondent accepted that the appellant had been lawfully resident in the UK, it was not accepted that he had been socially and culturally integrated or that there would be very significant obstacles on return. Given the duration of his criminal offending, it was difficult for him to show integration. His offending was not localised; there were instances of offending in Swindon and Exeter. He had 14 convictions from 23 offences since 2008. There was little to no evidence of his social and cultural integration, other than that he had been to school. There was little evidence from family and friends. Life would be difficult for him in Rwanda but he could obtain employment there. If he could work in construction here, he could undertake similar work in Rwanda. English was spoken there. There were no very significant obstacles to return. He would face similar difficulties in starting up wherever he went.

15. Mr Wilding submitted that it could not be pre-empted that he would not be able to obtain a passport. In any event, that was a matter for the Secretary of State and not for the Tribunal. There was significant public interest in his deportation. His criminality had escalated from minor offending. Whilst his brother may want to help him stay out of trouble, he had not been able to do so before. The appellant's plans of youth work were no more than a pipe dream. There was no evidence of any attempts he had made. His plan to work in the Brixton area would mean he was back in the area where he had previously been in trouble. The appellant made no mention of his brother's plan to find him work when he gave evidence and one wondered whether he had any real intentions of taking on such work. I was asked to consider the sentencing remarks and to dismiss the appeal.

16. Ms Bond relied on the determination of Kamara [2016] EWCA Civ 813 and asked that I make a broad and evaluative judgment and consider whether the appellant would be an outsider on return or enough of an insider to integrate. He had left Rwanda at the age of nine and had no family and no contact with anyone there. The Rwandan authorities had not accepted that he was a Rwandan national and his nationality could not be verified. His brother had given evidence that their applications to renew their passports had been refused. The appellant was not removable. That was a matter I could take into account. The appellant could not be expected to integrate into Rwanda if it was not accepted that he was Rwandan. The appeal should be allowed on that basis. His history of offending was shocking but he had his brother's help now.

17. That completed the hearing. I reserved my determination which I now give with reasons.

Discussion and Conclusions

18. I have carefully considered all the evidence as a whole before reaching any conclusions. The reasons set out below are not given in any order of priority.

19. The issues for consideration are (1) whether the appellant is socially and culturally integrated in the UK, it being accepted that he had been lawfully resident here for most of his life (s.117C(4)(a) and (b) and paragraph 399A), (2) whether the appellant could integrate into Rwandan society (s.117C(4)(c) and 399A) and (3) whether there are any exceptional circumstances justifying a grant of leave outside the rules on article 8 grounds.

20. It is necessary to first set out the law in this case.

21. S. 117C pertains to the article 8 claims of foreign criminals. It provides:
(1) The deportation of foreign criminals is in the public interest.
(2) The more serious the offence committed by the foreign national, the greater is the public interest in deportation of the criminal.
(3) In the case of a foreign criminal (C) who has not been sentenced to a period of imprisonment of four years or more, the public interest requires C's deportation unless Exception 1 or Exception 2 applies.
(4) Exception 1 applies where -
(a) C has been lawfully resident in the UK for most of C's life
(b) C is socially and culturally integrated in the UK, and
(c) *There would be very significant obstacles to C's integration into the country to which C is proposed to be deported.*

……

(7) *The considerations in sub sections (1) – (6) are to be taken into account where a court or Tribunal is considering a decision to deport a foreign criminal only to the extent that the reason for the decision was the offence or offences for which the criminal has been convicted.*

22. Paragraph 397 of the Immigration Rules provides that: *A deportation order will not be made if the person's removal pursuant to the order would be contrary to the UK's obligations under the Refugee Convention or the Human Rights Convention.*

23. Paragraph 398 states: *Where a person claims that their deportation would be contrary to the UK's obligations under article 8 of the Human Rights Convention, and…… (b) the deportation of the person is conducive to the public good [and in the public interest] because they have been convicted of an offence for which they have been sentenced to a period of imprisonment of less than 4 years but at least 12 months …… the Secretary of State in assessing that claim will consider whether paragraph 399 or 399A apples and, if it does not, the public interest in deportation*

will only be outweighed by other factors where there are very compelling circumstances over and above those described in paragraph 399 and 399A.

24. Paragraph 399 does not apply here as the appellant does not have a partner or a child. *Paragraph 399A applies where paragraph 398(b) or (c) applies if – (a) the person has been lawfully resident in the UK for most of his life; and (b) he is socially and culturally integrated in the UK; and (c) there would be very significant obstacles to his integration into the country to which it is proposed he is deported.*

25. Certain judgments were referred to in submissions and in the evidence. I have considered these. I consider in particular those where the principles particularly appertain to the appellant. The case of Kamara [2018] EWCA Civ 813 concerned a Sierra Leonean national who had come to the UK aged 6, was convicted of drugs offences, sentenced to over 4 years in prison and faced a deportation order. In considering s.117C(4)(c) and paragraph 399A, the court found that the concept of integration into the country of origin *"is a broad one…not confined to the mere ability to find a job or to sustain life"*. It held: *"The idea of integration calls for a broad evaluative judgment to be made as to whether the individual will be enough of an insider in terms of understanding how life in the society in that country is carried out and a capacity to participate in it so as to have a reasonable opportunity to be accepted there, to be able to operate on a day-to-day basis in that society and to build up within a reasonable time a variety of human relationships to give substance to the individual's private or family life"* (at 14).

26. In MM (Lebanon) [2014] EWCA Civ 985 it was held that: *"where the relevant group of Immigration Rules upon their proper construction provide a complete code for dealing with a person's Convention rights in the context of a particular immigration rule or statutory provision such as in the case of foreign criminals, then the balancing exercise and the way the various factors are to be taken into account in an individual case must be done in accordance with that code, although references to exceptional circumstances in the code will nonetheless entail a proportionality exercise"* (at 134).

27. In PF (Nigeria) [2015] EWCA Civ 251, the court noted that the consideration of whether there were very compelling reasons to outweigh the public interest in deportation had to be undertaken where paragraph 399 and 399A did not apply (at 43).

28. There is reference in the First-tier Tribunal determination to the case of Nididi v the United Kingdom (application no. 41215/14), a Nigerian national who came to the UK aged two with his mother, who subsequently obtained indefinite leave to remain and had a child but who faced deportation on account of an escalating history of criminal offending including robbery, assault, burglary and drugs. Some of his offending had been committed whilst he was a minor. He had received a sentence of over 4 years' in a young

offenders' institution. The court found that notwithstanding his long residence and family ties in the UK, deportation was justified.

29. It is also necessary to set out the appellant's background, both in terms of his immigration history and his criminality. Regrettably, the chronology contained in the appellant's bundle omits all offending between 2008 and 2013.

30. The appellant entered the UK in September 2001 with his twin brother and their father. Asylum applications were made for them by their father on 2 November 2001 but refused in January 2002 because the respondent considered there was no Convention reason engaged but he (and presumably his brother) were granted exceptional leave to remain until August 2003 followed by indefinite leave to remain the same month as dependants of their father who had made the application and who also received indefinite leave to remain. It is not the case, as claimed by the solicitors at R2, that they had been granted asylum.

31. In May 2005 the appellant was refused registration for British citizenship on the basis that neither of his parents was a British citizen. His father's application was refused on the basis that he had exceeded the permitted limit of absences from the UK.

32. On 25 March 2008 at Balham Juvenile Court the appellant was convicted of robbery and sentenced to a referral order for 9 months.

33. On 5 August 2008 the order was revoked by the same court and the appellant was convicted of burglary and theft (dwelling) and sentenced to a Supervision Order for 12 months and a curfew order for 3 months which included electronic tagging.

34. On 17 March 2009, the appellant was convicted, again at Balham, of breaching his Supervision Order and an order was made for the original sentence to continue.

35. On 2 September 2009, the appellant was convicted at Balham of disorderly behaviour or using threatening/abusive/insulting words likely to cause harassment, alarm or distress and fined £50.

36. On 14 January 2010, the appellant was convicted at Balham of using disorderly behaviour or threatening/abusive/insulting words likely to cause harassment, alarm or distress and destroying or damaging property. He was sentenced to

two Youth Rehabilitation Orders with an unpaid work requirement of 40 hours each.

37. On 11 February 2010, the appellant was convicted at Wimbledon Magistrates' Court of handling stolen goods and sentenced to a Youth Rehabilitation Order and Curfew Order for one month.

38. On 6 July 2010, the appellant was convicted at South Western Magistrates' Court of three counts of attempted burglary with intent to steal and sentenced to a Community Order with an Unpaid Work Requirement (UWR) of 120 hours on each count.

39. On 29 November 2010, the appellant was convicted at South Western Magistrates Court of failing to comply with the requirements of a community order and an Order was made for the original sentence to continue and a UWR of 10 hours consecutive was added to the original sentence.

40. On 10 January 2013, the appellant was convicted at Richmond Magistrates' Court of travelling on the railway without paying the fare.

41. On 19 July 2013, the appellant was convicted at Exeter Crown Court of handling stolen goods. He received a suspended prison sentence for 12 months, suspended for 24 months, a Supervision Requirement for 12 months, a Programme Requirement to participate in Thinking Skills and costs of £150.

42. On 25 September 2013, the appellant was convicted at North Essex Magistrates' Court of possession of a controlled drug (Class B) and commission of a further offence during the operational period of a suspended sentence order. He was ordered to pay costs of £85, forfeiture of drugs and one day in detention in lieu of non-payment.

43. On 26 December 2013, the appellant was convicted at Central Devon Magistrates' Court of two counts of possessing a controlled drug – Class A – with intent to supply (crack cocaine and heroin) and breaching a suspended sentence.

44. On 23 January 2014, he was sentenced at Exeter Crown Court to 2 years' imprisonment for possession of Class A drugs with intent to supply and sentenced to two years in prison consecutive to activation of a suspended 9 month sentence and one concurrent term of 2 years in prison was activated consecutively.

45. It was following this conviction that the appellant was, in April 2014, notified of the decision to deport. He responded with representations relying on his family life with a partner but the deportation order was signed on 10 October 2014. The s.94B certified decision was later withdrawn following the Supreme Court's judgment in Kiarie and Byndloss on 14 June 2017.

46. On 12 November 2014, the appellant submitted further representations which were considered as a fresh application under paragraph 353 and refused on 26 June 2015.

47. On 31 July 2015, bio-data and supporting documents were forwarded to the Foreign and Commonwealth Office to obtain verification of the appellant's nationality from the Rwandan authorities.

48. On 7 August 2015, the appellant was placed on remand for a further offence of control of criminal property and given a 6 month sentence on 8 January 2016.

49. On 25 February 2016, the Rwandan authorities notified the respondent that they could not verify the appellant's nationality.

50. In March 2016 the appellant was released from immigration detention following a successful bail application.

51. On 17 May 2016, representations were made on asylum grounds to the respondent.

52. On 29 July 2016, the appellant was arrested and on 26 August 2016 at Swindon Crown Court, he was convicted of possession of Class A drugs with intent to supply, possession of Class B drugs and possession of criminal property. He received a 2 year prison sentence.

53. On 11 August 2017, a section 72 notice was served on the appellant and he responded on 25 August 2017. His protection and human rights claims were refused on 12 September 2017 when a fresh deportation order with an in country right of appeal was issued.

54. Between March 2008 and August 2016, the appellant amassed some 14 convictions for 23 offences.

55. I have taken full account of the supporting evidence. In his witness statement of 8 October 2017, prepared for the First-tier Tribunal hearing (and adopted at that hearing), the appellant confirmed that he entered the UK with his brother

and father, that he settled with his step mother in Battersea, attended school, obtained 6 GCSEs and a performing arts diploma after three years at college (although no evidence in support of those qualifications has been adduced). Whilst at college, he had part time work at Homebase, undertook work experience at Primark and volunteered at Knights Youth Club in Brixton Hill. The appellant stated that he would be a stranger in Rwanda, he did not speak the language and had no one left there. He feared he would become a victim of genocide as his mother had been. He had no friends or family there. He states that he never heard from or saw his father after he separated from the appellant's step mother. She continued to look after him although kicked him out of the house when he was 14 because he *"was out of control"*. He had started smoking cannabis, using crack cocaine, missing school and committing crimes. When he was put in prison, he states that he began to take courses to help him on release. He took painting and decorating, tiling, cleaning and gym courses and also attended a drugs awareness course. He stated that he realised his mistakes and wanted to show he could be a better person. He stated he wanted to be a youth worker. He wanted to start a family life with his partner. His support network was here. He would die if removed because his life would be in danger. He regretted his past wrong doing.

56. The appellant has adduced copies of a Cleaning Professionals Skills Suite certificate issued in June 2017, Stop Drug supply certificate issued 10 July 2017, PS Awareness Group certificate issued 21 April 2017, OCR Level 1 in English (20 March 2017), OCR Level 1 in IT (3 January 2017), City and Guilds certificate Level 1 in English (21 February 2017), City and Guilds Level 1 in construction skills – wall and floor tiling (26 January 2017), City and Guilds Level 1 in Painting and decorating (5 January 2017), Pearson Edexcel Functional Skills in Mathematics Level Entry 3 (April 2017) and certificates issued by Inclusion for completing workshops on Managing Emotions (1 September 2016), Cannabis group (23 November 2016) and Mindfulness and Relaxation (4 October 2016). The certificates are all issued to a David GATSIZI rather than Gatsinzi but I take no issue with that.

57. I have considered a statement from the appellant's brother, Gerald, dated 24 October 2017. He states that the appellant realises he has made mistakes and has to change. He took educational courses in prison and sought help for his drug addiction. They have no family in Rwanda. The appellant wants to start a new life with his partner and give his children the life he never had. He wants to work and contribute to society.

58. Assessing the evidence before me, I find that the it is contradictory in many respects. The asylum application at A2, presumably completed on the appellant's behalf and signed by his father as guardian, provided information that the appellant had never held a Rwandan passport but his evidence to me was that he had had one but had lost it. His brother said his had expired which further indicates that the brothers had passports. The appellant made no mention of his brother seeking to get new passports for both of them. There

are also contradictions about how the appellant came to the UK. His evidence and the evidence of his brother was that they had arrived with their father. The asylum application maintains the appellant came with an agent arranged by his grandmother to join his father (A2 and A4). The appellant maintained in evidence to me and to the First-tier Tribunal Judge that he did not know where he lived or where he was born but he has provided a date of birth throughout the proceedings and was said to have a birth certificate which would have information about his place of birth (at A2). There is also information about his residence in Kigali in the asylum application. Whilst his brother claimed one of the problems with getting new passports was that they did not know when they were born, they have both supplied a date of birth to the respondent and the Tribunal. In his representations to the respondent, the appellant maintained that he only had his father and brother in Rwanda after his mother died when he was very young (N7) but details of two other brothers and a sister in Rwanda are provided in the asylum interview (A3). The appellant's brother gave evidence that their father had returned to Rwanda in 2010-2011 and that they had spoken to him once thereafter but the appellant maintained, in June 2017, that he did not know if his father had returned there (N10) and that he had not had contact with him after he left the family home in 2006 (statement).

59. The appellant relied heavily in his representations to the respondent (in August 2014 and 2017) and in his witness statement for his appeal before the First-tier Tribunal (as did his brother) on a relationship with a woman he intended to marry after his release from prison but at his hearing before the First-tier Tribunal Judge in November 2017, just a few weeks after the witness statement had been prepared, the relationship was said to have come to an end (at paragraph 6 of the determination).

60. There is a reference in the respondent's evidence (10 October 2014 letter) of the appellant's father being granted indefinite leave to remain; in those circumstances it is puzzling that he should have been removed but I have been given no evidence on that. It is also the case that he was refused British citizenship in 2006 because he had exceeded the permitted limit of absences from the UK (ibid). I have no information as to where he travelled.

61. The appellant asks for a second chance to show that he has turned his life around after his long and sorry history of criminality which he acknowledges is a poor one. The difficulty I have is that this is not the first time he has made such a plea. In the past he made much the same promise to the Secretary of State in his representations in November 2014 (H1-3) and in August 2015 (I1-2). Despite promising to keep out of trouble and not to continue re-offending, he was back in prison in August 2015 and in July 2016 (following convictions for four offences). This limits the weight that can be put upon his promises of good behaviour and assertions that he has learnt from his mistakes. This is

compounded by the fact that the last offence was committed whilst he was on bail and that he continued to re-offend even after he was notified of a decision to deport in April 2014 and after the deportation order was signed in October 2014. Indeed, he received one of his longest prison sentences for his most recent offence. He has also breached the terms of various orders and committed offences during the period of a suspended sentence. This does not show me that he is sorry for his past behaviour or that he has made any effort to change his ways. If he was genuinely sorry and sincere in his promises, then one would have expected no further offending after 2014 when he first put his promises and pleas forward to the respondent. The evidence also shows that he received two adjudications whilst in prison (at paragraph 5 of the determination). He maintains these were for minor matters; no details are given, but nonetheless it shows that his behaviour is still problematic.

62. I have taken into account the appellant's brother's assurances of help and support but these are of limited value. The appellant was living with his brother following an earlier prison sentence when he was re-arrested and it is, therefore, clear that his brother had no influence over him previously. Why anything should be different now has not been explained.

63. The appellant seeks to blame part of his offending on having no income. The evidence is that during his life here, he has only ever had a three-month part time job at Homebase whilst he was at college. He admitted to the First-tier Tribunal Judge that he made a living through drug dealing (at paragraph 8). It remains a concern that the appellant would again turn to crime if he was short of funds. Although his brother gave evidence that he would be able to get him employment in the scaffolding business, there is no documentary evidence to confirm this possibility. Nor was I reassured by his evidence that the appellant had agreed to such employment as the appellant himself made no reference to any such work or of his brother's offer in his own evidence. The appellant spoke only of his plan to seek youth work at a youth club in Brixton but there is no evidence from the club to confirm that they would be willing to employ him given his criminal record (and I note that the appellant's brother himself raised this as a point against him in evidence) and, more importantly, I note that is the area where the appellant previously came into contact with the wrong crowd of friends. The appellant's brother stated in evidence that the appellant could live with him and that they would be living away from the Brixton/Clapham area however he has no accommodation lined up and the appellant's own evidence suggests that he has no intention of staying away from that part of London.

64. When sentencing the appellant in January 2014, the judge noted the appellant's long history of offending and the escalation in seriousness of his offences (E3). He noted that he had warned the appellant of the consequences

of re-offending during a suspended sentence, but that had not deterred the appellant who just a short time thereafter had been found in possession of cannabis and was then re-arrested. Despite receiving a prison sentence of 2 years and 9 months, and professing to have learnt his lesson whilst incarcerated, the appellant continued with his heroin and cocaine dealing and received a 2-year sentence in August 2016 for Class A drug dealing, possession of criminal property, possession of cannabis and assaulting a police officer. That sentence took account of the appellant's professed difficulties in life but the appellant cannot continue to blame his own appalling behaviour on others such as his father. Whilst the evidence was that now he faced deportation, he had realised the error of his ways and would make good, the fact remains that that was also the situation back in 2014 when the deportation order was first signed. It did not stop his criminal behaviour then and the evidence does not indicate that it is any different now.

65. I note the courses the appellant undertook in prison but his evidence did not suggest that he intended to make use of any of them to find work; eg, in painting and decorating, tiling, cleaning or that he planned any further education.

66. I find it of concern that the appellant's step mother who is said to be willing to support him has not taken any steps to confirm that, either by attending this or the hearing before the First-tier Tribunal or to have at least put forward a written statement. I fail to see how having young children would make it impossible for her to prepare a letter of support. This is despite the fact that the First-tier Tribunal Judge commented on the absence of any written support (at paragraph 9). There is no suggestion that she has been in contact with the appellant or that she has visited him in prison or immigration detention nor are there any letters of support from her. I do not consider that it has been shown that the appellant can expect any support from her nor do I find that the evidence shows that there is any kind of subsisting relationship between the appellant and her and her children (of whom no details have been provided). It was not the appellant's brother's evidence that he had any contact with her either.

67. I have seen no other evidence of support. There is nothing from the Youth Club where the appellant claimed to have undertaken some kind of volunteer work. There is no evidence to suggest they would be willing to have him back there or that they could offer him voluntary work. There is nothing from the appellant's brother's employer to show work is available or would be offered to the appellant. There is no evidence of where the appellant would live if released from detention. There is no evidence from the prison authorities or from a probation officer. There is no OASys report. Indeed, the evidence is very sparse indeed. The appellant's own oral and written evidence aside, the

supporting evidence consists essentially of his brother's statement and the appellant's certificates.

68. It is in the context of all this evidence, the case law (specifically the "*broad evaluative judgment*" exhorted in Kamara), the rules and the difficulties highlighted above that I must consider whether the appellant should be deported. Exception 1 in s.117C(4) puts forward three requirements: for the individual to have been lawfully resident in the UK for most of his life, to be socially and culturally integrated and for there to be very significant obstacles to integration into the proposed country of return. This is incorporated into the Immigration Rules at paragraph 399A.

69. Although it is unclear whether "*most of one's life*" means having spent more time in the UK than outside it or something else entirely, it is accepted by Mr Wilding that this requirement is met. I do not go behind it. Turning then to the second issue, I find that having been to school here, having lived here since childhood and being fluent in English, the appellant is culturally integrated. The same cannot be said, however, for social integration. The only connection the appellant has here is his brother. He has no employment history, no subsisting friendships, no family life of any kind and, regrettably, his private life appears to have been one which revolved around crime. He has spent long periods in prison and has been the subject of many other non-custodial sentences. He has not shown that he was ever financially independent or that he ever contributed to the economic well-being of this country or indeed that he has positively contributed in any way. This does not show a social integration at all; indeed, it demonstrates the very opposite. The appellant appears to have turned his back on society. Nothing in the evidence suggests to me that the appellant has socially integrated into the community in a positive way.

70. With respect to the situation in Rwanda, I consider that the truth has not been told. The appellant's father would appear to have returned there and from the papers before me there are three other siblings there. The appellant has not been candid about this in his evidence and that gives rise to concern over his claim to have no contact with anyone there. I also note that an interpreter in "*Kinya*" was requested at the asylum interview (A7). I can safely assume that Kinya refers to Kinyarwanda, the main language spoken in Rwanda. If this was for the appellant's father then it indicates that was his mother tongue and it is not credible that the appellant would not have been speaking it as his only language when he arrived here or that he would not have continued using it with his father, even if it was infrequently, until his father left. In those circumstances it is difficult to accept that he now has no knowledge at all of the language. It may be rusty but he should have some memory of it. Additionally, I note from the evidence that English is also used in Rwanda. I

accept that it would be difficult for the appellant to return and to resume his life in Rwanda but I do not find that there would be very significant obstacles to his re-integration. He could make contact with his family, if not already in contact and he could look for employment given that he has a variety of skills. Plainly, he has made no attempt to undertake any enquiries at all. He has no meaningful private or family life here (indeed no evidence of either was adduced) so there would be no disruption to that and his intermittent contact with his brother and any contact that may exist with his step-mother could be continued from overseas.

71. Ms Bond relied heavily on the refusal of the Rwandan authorities to verify the appellant's nationality. That is, however, a matter for the respondent when it comes to removal. The appellant has had a previous passport, by his own evidence, and he had a birth certificate as the evidence demonstrates. The authorities should, therefore, have a record of him. His brother's expired passport could also be produced to the authorities as further confirmation of his Rwandan connections. I note that although his brother stated the passport had expired, he did not claim that he had lost it. I have seen no evidence of any attempt made by the brother to renew his passport nor any evidence of the refusal to issue a passport to him. It was argued that the respondent was unsuccessful in her attempts to have his nationality verified but I have no information as to what evidence was available to her at the time. She may be able to obtain information or evidence from the appellant's father's file. He must have had some kind of travel document for removal. I do not, therefore, accept that a refusal to confirm the appellant's nationality is a relevant issue for consideration when assessing re-integration, however attractive it may appear.

72. I conclude, therefore, that the appellant does not meet the requirements of the exceptions to deportation.

73. I now consider whether there are any very compelling circumstances as to why deportation should not go ahead. Clearly there is a significant public interest in his deportation due to the sheer number and seriousness of the offences committed and the persistence of offending over a number of years despite prison sentences and the threat of deportation. The appellant must show a very strong article 8 claim to overcome that hurdle and I regret to say that this has not been done. His length of residence alone is insufficient to amount to a very compelling circumstance and in this context I note the judgment in Ndidi where the European Court of Human Rights found that despite the 28 year residence of a Nigerian national in the UK (since his arrival at the age of two), his family ties, relationship with a British national, the birth of a child, limited ties to his home country and no re-offending for a six year period, his deportation would not be in breach of article 8. Whilst that

individual had received a more severe prison sentence than the appellant, he had been in the UK for far longer and from a much younger age. He also had strong ties. However, he too had been given many opportunities to change his ways but had failed to avail himself of them. It was found that he was of an age where he could cope with starting a new life. The same applies to the appellant.

74. The appellant's skeleton argument proceeds on the basis that in order to succeed, the appellant has to show very compelling circumstances over and above paragraph 398 and 399 and the exceptions in s.117C(4). That suggests that it is accepted that the exceptions do not apply. The submissions made in support of that test, as put in the skeleton argument and at the hearing, are:

75. (1) that the appellant is not a serious criminal who constitutes a danger to the community,
(2) that he came here as a child aged nine,
(3) that he has had a troubled life since his father left home,
(4) that freedom of speech or opposition to the regime are not tolerated in Rwanda,
(5) that he has been lawfully resident in the UK for the majority of his life,
(6) that he is socially and culturally integrated in the UK,
(7) that there would be significant obstacles to his re-integration into Rwandan society,
(8) that he has no links with family in Rwanda and no contact with his father since 2006,
(9) that he would be an outsider on return,
(10) that he does not have a capacity to participate in society there,
(11) that he would not be accepted and
(12) that the authorities have not accepted he is a Rwandan national.

76. I have already addressed these points above but to summarise my conclusions and taking each in turn I make the following comments. The appellant has shown by his own behaviour and crimes that he is a serious criminal and that given the escalation and persistence of his offending, even whilst under threat of deportation, on bail and during a suspended sentence, the lack of any meaningful support network and the absence of any influence exerted over him by his brother or anyone else, he is a danger to the community. It is accepted that he entered the UK aged nine and it is accepted that he has been living here lawfully since then until 2014 when the deportation order was signed; however, as already considered above, that alone does not outweigh the public interest in his deportation (as per Ndidi). It is not clear why the appellant blames his father's departure from the family home for his criminality particularly when he appeared to have a secure home at the time with his step mother and when his twin brother has not followed in his

footsteps with a life of crime. The appellant has not suggested that he has any political views and it has never been part of his case that he would wish to become involved in opposition politics. I have accepted cultural integration but not social integration for the reasons given above. The submissions failed to engage with why it is asserted the appellant is socially integrated given his behaviour. I accept it would be difficult to re-integrate into Rwandan society after a long absence but I consider that the appellant could reconnect with relatives and/or could be expected to manage on his own given his acquired skills, good health and young age. His brother, who has offered to help him, could offer financial assistance until he settles down. I do not accept the account of no links with Rwanda given the inconsistent evidence identified earlier. Nor do I accept there has been no contact with the appellant's father since 2006 as the appellant's brother's evidence contradicted that claim. The appellant may feel an outsider at first but can be expected to adjust and integrate. It is not explained why he does not have the capacity to participate in society there or on what basis it is maintained that he would not be accepted. The issue of nationality is a matter for the respondent on removal. No other factors which could constitute compelling circumstances have been put forward.

77. The strongest and perhaps only point in the appellant's favour is that he entered the UK at the age of nine and has been lawfully resident here from then and up until the making of the deportation order. For all the reasons set out above, however, I do not find that that outweighs the strong public interest in his deportation.

Decision

78. The appeal is dismissed on human rights grounds.

Anonymity

79. I was not asked to make an anonymity order and, in any event, see no reason to do so.

Signed

Upper Tribunal Judge
Date: 23 April 2018