

1. The appellant, a citizen of South Africa who was born on 6 July 1941, appeals against a decision of the First-tier Tribunal which was promulgated on 24 February 2020. The First-tier Tribunal had dismissed the appellant's appeal against a decision of the Secretary of State refusing his claim for leave to remain human rights grounds.
2. At the initial hearing on 27 January 2021, Mr Diwnycz, who appeared for the Secretary of State, told me that the respondent agreed that the First-tier Tribunal had erred in law such that its decision fell to be set aside. In the circumstances, I shall be brief.
3. At [7], the First-tier Tribunal judge incorrectly found that the appellant had made his human rights application whilst an overstayer in the United Kingdom. The parties consider that this error infected the remainder of the judge's analysis. Further, that analysis, in particular the consideration of proportionality, is inadequate and, in parts, brief to the point of being unclear.
4. I set aside the decision and direct that the appeal is returned to the First-tier Tribunal which will need to carry out a fresh finding-finding exercise. None of the findings of fact shall stand. The parties may adduce fresh evidence provided that such evidence (including any witness statement) is filed at the Upper Tribunal and served on the other party at least 10 days prior to the next hearing.

Notice of Decision

The decision of the First-tier Tribunal is set aside. None of the findings of fact shall stand. The appeal is returned to the First-tier Tribunal for that Tribunal to remake the decision following a hearing *de novo*. **(Not Judge Abebrese; no interpreter; First-tier Tribunal to determine whether remote of face to face; first available date).**

Signed
2021
Upper Tribunal Judge Lane

Date 27 January