



**Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: UI-2022-005070
HU/51237/2020; IA/00295/2021**

THE IMMIGRATION ACTS

**Heard at Field House
On the 7 December 2022**

**Decision & Reasons Promulgated
On the 23 January 2023**

Before

UPPER TRIBUNAL JUDGE STEPHEN SMITH

Between

**MR TATENDA CLIVE MUREFU
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: In person

For the Respondent: Ms H. Gilmour, Senior Home Office Presenting Officer

DECISION AND REASONS

1. By a decision dated 1 November 2021, First-tier Tribunal Judge Chana (“the judge”) dismissed an appeal by the appellant against a decision of the Secretary of State dated 16 December 2020 to refuse his human rights claim.

2. By a rule 24 notice dated 26 April 2022, and as confirmed by Ms Gilmour at the hearing on 7 December 2022, the Secretary of State does not oppose the appellant's appeal. Specifically, the Secretary of State accepts that the judge's finding that the appellant does not enjoy more than normal emotional ties with his mother was not rationally open to her. The appellant had been issued with discretionary leave by the Secretary of State on two prior occasions on account of his relationship with, and care for, his mother. I agree that that concession was properly made and that it was not rationally open to the judge to conclude on the evidence before her, for the reasons she gave, that the appellant does not enjoy Article 8 "family life" with his mother.
3. Since the appellant's relationship with his mother lay at the heart of the appeal, it follows that the judge's decision must be set aside and remitted to the First-tier Tribunal to be heard afresh, by a different judge.

Notice of Decision

The decision of Judge Chana involved the making of an error of law and is set aside with no findings of fact preserved.

The appeal is remitted to the First-tier Tribunal to be heard by a different judge.

No anonymity direction is made.

Signed Stephen H Smith

Date 13 December 2022

Upper Tribunal Judge Stephen Smith