**IN THE UPPER TRIBUNAL**
**IMMIGRATION AND ASYLUM CHAMBER**

**Case No: UI-2022-005086**
**First-tier Tribunal No:**
**HU/03537/2020**

**THE IMMIGRATION ACTS**

**Decision & Reasons Issued:**
**On the 12 March 2024**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE B KEITH**

**Between**

**LEONARD PERRY LONGVILLE**
**(NO ANONYMITY ORDER MADE)**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**
For the Appellant: Mr Dhanji, Counsel
For the Respondent: Mr Tufan, Senior Home Office Presenting Office

**Heard at Field House on 28 February 2024**

**DECISION AND REASONS**

1. This is an appeal by Leonard Longville against the Secretary of State for the Home Department ("SSHD") against the decision of First-tier Tribunal Judge Bart-Stewart ("the Judge") which was heard at Yarl's Wood via CVP on 27 October 2021 and promulgated on 9 November 2021. The facts were set out in paragraph 1 of the judgment.

2. Mr Longville was born on 9 October 1967 and is a national of Saint Lucia. He appealed under Section 82 of the Nationality, Immigration and Asylum Act 2002 against a decision dated 17 February 2020 to refuse leave to remain in the United Kingdom.

3. The Appellant claimed that he entered the United Kingdom on 1 January 1991 as a visitor for six months and had overstayed since. On 8 January 2020 he applied for leave to remain in the UK on family and private life grounds on the basis of length of residence specifically the fact that he had been resident in the United Kingdom for twenty years.

4. The judge gives a detailed judgment refusing the appellant's appeal finding that there was not sufficient evidence to show that he had been resident in the United Kingdom for the twenty year period.

5. The grounds of appeal are summarised in paragraph 3 of the grounds

> "3. It is submitted that it is arguable that, when determining whether the Appellant had proved that he had lived in the United Kingdom for a continuous period of 20 years at the date of application and met the requirements of paragraph 276ADE(1)(iii), the FtTJ materially erred in law by failing to take account of, give any or adequate consideration to or make findings in respect of the evidence of the Appellant's son, Tyrece Tison and step-daughter Kirsty Tison, both of whom attended the hearing and gave direct evidence of the Appellant's residence in the United Kingdom in the years since 2000".

6. Mr Tufan for the Home Office accepts that there are no findings in relation to the Appellant's son or the Appellant's step-daughter and I can find no reference to the evidence that they gave in the judgment. Mr Tufan submits that very few questions were asked of them as a full Record of Proceedings has been taken by the Home Office. However that Record of Proceedings is not in evidence before me in either witness statement format or any other format so I am unable to determine whether or not that evidence might or might not be material.

7. In the circumstances the two witnesses, if they were to be rejected, should have been ruled upon and if they were to be accepted should also have been ruled upon. Not referring to their evidence in any respect even in passing other than to say that their witness statements were in the bundle means that potentially important pieces of evidence were not referred to and that constitutes a material error of law. For those reasons I find that there is a material error of law in the First-tier Tribunal Judge's judgment.

8. In terms of disposal the case will require a rehearing in relation to the appellant and all the witnesses. I am unable to preserve any of the findings from the First-tier Tribunal Judge because it is unclear to me which parts of the evidence were or were not accepted particularly in relation to the son and daughter.

9. As a result I direct that the case be remitted to the First-tier Tribunal for a rehearing.

**Directions**

(1) There is a material error of law.

(2) The case needs to be reheard before the First-tier Tribunal.

**Ben Keith**

Deputy Judge of the Upper Tribunal
Immigration and Asylum Chamber

**28 February 2024**