



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

On appeal from EA/01200/2021  
Appeal Number: UI-2021-001431

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 24 March 2022**

**Decision & Reasons  
Promulgated  
On 26 April 2022**

**Before**

**UPPER TRIBUNAL JUDGE GLEESON  
DEPUTY UPPER TRIBUNAL B KEITH**

**Between**

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

Appellant

**and**

**JASPER KIBWANGA OKELLO ABURA  
(ANONYMITY ORDER NOT MADE)**

Respondent

Representation

The Appellant appeared in person.

For the Respondent: Ms Hannah Gilmore, Home Office Presenting Officer

**DECISION AND REASONS**

1. The appellant SSHD appeals against the decision of First Tier Tribunal Judge Hosie to allow the Respondent's Appeal against the Decision of the SSHD to refuse him by a decision dated 31 December 2021 refusing his application for an EU family permit

under Immigration (Citizen's Rights Appeals) (EU Exit) Regulations 2020 (the EU Exit Regulations).

2. At the hearing the SSHD relied on the grounds of appeal drafted. However even in those grounds of appeal the SSHD does not provide a detailed analysis or substantive grounds as to why the decision of the First Tier Tribunal judge was wrong in law. In fact, the grounds of appeal fairly state that this appeal is in fact a protective one to prevent the Secretary of State from being restricted in arguing the case should she choose to do so. The grounds of appeal state the following:

“The Secretary of State will be looking independently at the complexities of the case but brings this challenge so as not to be fixed with a finding that a claim to pre-settled status (“at least” has been established given the lack of proper consideration of all relevant matters in each potentially applicable route.”

3. This is an error of law jurisdiction and we must decide whether there is a material error of law. However, in this case the respondent has in fact been granted leave to remain commencing on the 29th of June 2021 and expiring on the 28th of July 2023. Status under the EU Settlement Scheme does not provide any additional benefits. Therefore, if there is an error of law in the First Tier Tribunal decision it cannot be material in relation to this Respondent as it will have no bearing on his status in the United Kingdom.
4. Therefore, there is no material error of law and we dismiss the appeal.

**Notice of Decision**

5. The appeal by the SSHD is dismissed.

Signed: [Benjamin Keith](#) Date: 24 March 2022  
Deputy Upper Tribunal Judge Keith