



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

Appeal Number: EA/03124/2016

THE IMMIGRATION ACTS

Heard at Field House

On 10th April 2018

**Decision & Reasons
Promulgated**

On 20th April 2018

Before

DEPUTY UPPER TRIBUNAL JUDGE J G MACDONALD

Between

**MR CHUKWUNONSO CHUKWUKADIBIA NWAIWU
(ANONYMITY ORDER NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Chukwunonso Chukwukadibia Nwaiwu in person

For the Respondent: Ms Z Ahmed, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The Appellant is a citizen of Nigeria who appealed against the decision of the Respondent to refuse to grant him permanent residence in the United Kingdom. His former spouse was named as a Portuguese national. His appeal to First-tier Tribunal Judge Cohen was dismissed in a decision promulgated on 10th August 2017.
2. Grounds of application were lodged and it was said that the judge had misdirected himself in a number of paragraphs of the decision and that the Sponsor was only required to provide evidence that she was exercising her

treaty rights of residence from the date of the marriage and not prior to the marriage. The Appellant had provided sufficient evidence.

3. It was stated that a number of the assertions of the judge were insufficiently reasoned and therefore flawed.
4. Permission to appeal was granted and thus the appeal came before me on the above date.
5. Mr Nwaiwu appeared in person, explaining that his solicitor had been on holiday. He said he did not wish to ask for an adjournment. Contrary to what was said by the judge he was a truthful witness and he relied on his Grounds of Application.
6. For the Home Office Ms Ahmed said that the Appellant could not meet the requirements of Regulation 10. The judge had set out the position clearly in paragraphs 16, 17 and 18. There was no error in law. Given the judge's findings he could not have come to a different conclusion. This was not a case where the Tribunal should interfere with the reasoning, given what was said in **VW (Sri Lanka) [2013] EWCA Civ 552** as the judge had given more than adequate reasons.
7. I reserved my decision.

Conclusions

8. The crucial findings of the judge are set out in paragraphs 16 and 18 of the decision and in particular in paragraph 18 the judge noted that the Appellant was "an extremely unreliable witness". The judge went on to explain that he had given changeable and discrepant evidence, all as detailed in that paragraph. Ultimately the judge concluded that he found the Appellant to be "other than a witness of truth" and found that his evidence was damaging to the credibility of the appeal.
9. The judge gave clear and concise reasons why he was making that finding. He had already found, for reasons stated, that the Sponsor was not exercising treaty rights at the date of divorce (paragraph 16).
10. The grounds argue with the decision of the judge but, in my view, are argumentative only and go no further than that. The core finding that the judge made was that the Appellant was not a reliable or credible witness and he gave full reasons for such a finding; the reasons for that finding have not been impugned. Standing that, this appeal had no prospect of success.
11. In any event there is no error of law in the judge's decision which must stand.

Notice of Decision

The making of the decision of the First-tier Tribunal did not involve the making of an error on a point of law.

I do not set aside the decision.

No anonymity order is made.

Signed *JG Macdonald*

Date 19th April 2018

Deputy Upper Tribunal Judge J G Macdonald

TO THE RESPONDENT
FEE AWARD

I have dismissed the appeal and therefore there can be no fee award.

Signed *JG Macdonald*

Date 19th April 2018

Deputy Upper Tribunal Judge J G Macdonald