



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

Appeal Number: EA/04580/2018

THE IMMIGRATION ACTS

**Heard at Field House
On 19 August 2019
Oral judgment**

**Decision & Reasons Promulgated
On 29 August 2019**

Before

UPPER TRIBUNAL JUDGE COKER

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

MR DIOUF ABDOURAHMANE

Respondent

Representation:

For the Appellant: Mr L Tarlow, Senior Home Office Presenting Officer

For the Respondent: Appellant did not attend and was not represented

DECISION AND REASONS

1. Mr Abdourahmane who is named as the respondent in this appeal has not attended the resumed hearing by 11:15.
2. For the reasons set out in a decision promulgated on 14 June 2019 I found that there was an error of law by the First-tier Tribunal Judge in allowing an appeal by Mr Abdourahmane against the refusal of a residence card. That residence card had been refused on the grounds that according to Home Office records Mr Abdourahmane had a wife and child in Senegal despite having claimed not to have been previously married. The First-tier

Tribunal Judge had not taken a decision: he neither allowed nor dismissed the appeal and as such I set aside his judgment.

3. At the hearing on 6th June Mr Abdourahmane was legally represented. The Tribunal has received a letter from those solicitors saying that they are no longer instructed and they would not be attending the hearing today. The solicitors were clearly aware of the hearing date and at the time that they were notified of the hearing date they were instructed by Mr Abdourahmane. Mr Abdourahmane was also sent a copy of the notice of hearing; that notice of hearing has not been returned to the Tribunal undelivered. I am therefore satisfied that Mr Abdourahmane has received notification of the hearing and for some unknown reason has chosen not to attend.
4. It therefore appears that he no longer wishes to pursue his appeal whether on the grounds that he was in fact lawfully married to his current partner or, as was agreed at the error of law hearing, that a new matter could be raised that they are in a durable relationship such as to meet the requirements of the EEA Regulations. Given that he has not attended today I am of the opinion that he no longer wishes to pursue his appeal against the decision of the Secretary of State which led to the initial appeal.
5. The Secretary of State's appeal is therefore successful and I dismiss Mr Abdourahmane's appeal against the original decision of the Secretary of State.

Signed on 19th August 2019

Jane Coker
Upper Tribunal Judge Coker