

**Upper Tribunal
(Immigration and Asylum
Chamber)**
IA/26732/2013



Appeal Number:

THE IMMIGRATION ACTS

Heard at Field House, London

On 7th May 2014

Determination

Promulgated

On 20th May 2014

Before

UPPER TRIBUNAL JUDGE ROBERTS

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

And

**MR RANDY LIBMAN
(ANONYMITY DIRECTION NOT MADE)**

Respondent

Representation:

For the Appellant: Mr Jack, Home Office Presenting Officer

For the Respondent: No appearance

NOTICE

1. The Respondent Randy Libman is a national of the USA born 12/07/1970. The Appellant is the Secretary of State for the Home Department. For ease of reference in this notice I shall refer to the Secretary of State as "the Respondent" and Randy Libman as "the Appellant", as they were before the First-tier Tribunal.
2. In a determination promulgated on 22nd January 2014, First-tier Tribunal Judge Scott-Baker dismissed the Appellant's appeal against the

Respondent's decision of 6th June 2013 refusing to grant him indefinite leave to remain in the United Kingdom on the basis of being a Work Permit Holder. However having dismissed the appeal under the Immigration Rules, the Judge noted that a decision to refuse to vary leave to enter contained a removal notice under Section 47 and in paragraph 14 the Judge said as follows.

"I note that a decision has also been made with regard to Section 47 but following the decision in **Ahmadi [2013] EWCA Civ 512** this decision is remitted to the Secretary of State for further consideration".

3. The Respondent sought and was granted permission to appeal the First-tier Tribunal's decision on the ground that the Tribunal had made a material misdirection of law; the reason being the decision to remove was made on 6th June 2013, therefore after 8th May 2013 and benefitted from the amendments made by Section 51 of the Crimes and Courts Act 2013 (which make the removal decision lawful).
4. Matters were listed for a hearing before me, in order to consider whether the determination contained an error of law such that it should be set aside and, if appropriate, to proceed to remaking the decision.
5. At the hearing before me on 7th May 2014, Mr Jack attended on behalf of the Respondent. He informed me that the Appellant had voluntarily departed from the United Kingdom for the United State of America on Sunday 10th November 2013. This was evidenced by a disclaimer in the case of Voluntary Departure Form (IS101) duly signed by the Appellant together with a notice of flight details signed by the Immigration Enforcement Team. Mr Jack asked that I treated the appeal as abandoned.
6. I am satisfied by virtue of Section 104(4) of the Nationality Immigration and Asylum Act 2002 and by paragraph 17a of the Tribunal Procedure (Upper Tribunal) Rules 2008 that this appeal can be treated as abandoned. This notice is drawn up pursuant to Rule 17(5) to inform the parties that the Appellant's case is treated as abandoned and there are no further proceedings before either the Upper Tribunal nor the First-tier Tribunal.

No anonymity direction is made

Signature
Judge of the Upper Tribunal

Dated