



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

Appeal Number:

IA/52177/2013

THE IMMIGRATION ACTS

**Heard at Field House
On 4 September 2014**

**Notice sent
On 4 September 2014**

Before

Deputy Judge of the Upper Tribunal I. A. Lewis

Between

**Daniel Ohene Addae
(Anonymity direction not made)**

Appellant

and

Secretary of State for the Home Department

Respondent

Representation

For the Appellant: Mr. N. Bajwa of Counsel instructed by A. Bajwa & Co.

For the Respondent: Mr. I. Jarvis, Home Office Presenting Officer.

NOTICE OF WITHDRAWAL

Tribunal Procedure (Upper Tribunal) Rules 2008 r.17(5)

1. This case was listed before the Upper Tribunal today as an appeal against the decision of First-tier Tribunal Judge Turquet promulgated on 16 May 2014, dismissing the Appellant's appeal against the Respondent's decision dated 16 November 2013 to refuse to issue a Residence Card as confirmation of a right of residence as the family member of an EEA national.

2. The Appellant is a national of Ghana born on 9 September 1983. His application for a Residence Card made on 17 June 2013 was based on his relationship with Ms Isabel Da Silva, a Portuguese national. It was the Appellant's case that he was married to Ms Da Silva by proxy in a customary marriage ceremony conducted in Ghana in the absence of the parties to the marriage. The Respondent refused the Appellant's application for reasons set out in a 'reasons for refusal' letter dated 16 November 2013, and a Notice of Immigration Decision was prepared on the same date.

3. The Appellant appealed to the IAC. The First-tier Tribunal Judge dismissed the appeal for reasons set out in her determination. The Judge made three adverse conclusions: she was not satisfied that the Appellant was duly married in accordance with the law of Ghana; in any event there was no evidence that the claimed marriage was recognised in Portugal; in the alternative, the Judge was not satisfied that the Appellant was in a durable relationship with Ms Da Silva (who had not attended the appeal hearing and from whom there was no witness statement).

4. The Appellant sought permission to appeal which was granted by First-tier Tribunal Judge Hollingworth on 14 July 2014.

5. It is to be noted that the grounds in support of the application for permission to appeal only sought to challenge the Judge's conclusion in respect of the validity of the marriage in Ghana. The grounds did not challenge either the Judge's conclusions pursuant to the case of **Kareem (Proxy marriages - EU law) [2014] UKUT 00024 (IAC)** in respect of the absence of any evidence of recognition of the marriage in Portugal, or the adverse findings in respect of the durability of the relationship. In such circumstances I am unable to understand the basis upon which permission to appeal was granted.

6. Be that as it may, Mr Bajwa was quick and commendably frank in his recognition of the difficulty presented in pursuing the appeal today in circumstances where there was no challenge raised in respect of **Kareem** or durability. In such circumstances, and after some brief discussion, Mr Bajwa indicated that he wished to withdraw the appeal on behalf of the Appellant. Mr Jarvis raised no objection to such a course of action.

7. Pursuant to rule 17(1)(b) of the Tribunal Procedure (Upper Tribunal) Rules 2008 "a party may give notice of the withdrawal of

its case... orally at a hearing". Mr Bajwa is the Appellant's duly authorised representative and gives such notice orally today. The Upper Tribunal's consent is required for a notice of withdrawal to take effect (rule 17(2)). In circumstances where there is no objection from the Respondent, and further where there is no meritorious basis of challenge to the decision of the First-tier Tribunal, I give that consent.

8. Necessarily the consent is to the withdrawal of the Appellant's case as it stands before the Upper Tribunal. The effect of the withdrawal of his case before the Upper Tribunal is that his challenge to the decision of the First-tier Tribunal comes to an end, and the decision of the First-tier Tribunal stands.

9. This Notice is given pursuant to rule 17(5) of the Procedure Rules.

Outcome

10. The Appellant's challenge to the decision of the First-tier Tribunal is withdrawn.

11. The decision of the First-tier Tribunal stands.

Deputy Judge of the Upper Tribunal I. A. Lewis 4 September 2014