



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

Appeal Number: IA/12224/2015

THE IMMIGRATION ACTS

**Heard at Field House
On 1 July 2016**

**Decision & Reasons Promulgated
On 11 July 2016**

Before

DEPUTY UPPER TRIBUNAL JUDGE HANBURY

Between

**MR BASHIR SUGULLE HERSI
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr R Singer of Counsel

For the Respondent: Miss A Brocklesby-Weller a Home Office Presenting Officer

DECISION AND REASONS

1. In this decision I will refer to Mr Bashir Sugulle Hersi as “the appellant” and the Secretary of State for the Home Department as “the respondent”, although their roles are reversed before the Upper Tribunal.
2. This is the respondent’s appeal against the decision of the First-tier Tribunal (FtT) to allow the appellant’s appeal against the respondent’s refusal to grant the appellant “permanent residence” on 13 March 2015.

3. The appellant is a citizen of the United States of America who claimed that he wished to exercise Treaty rights under the European Economic Area Regulations 2006 ("2006 Regulations") as a family member of a Dutch national, namely, Ugaaso Mohamed Yusuf.
4. The respondent appealed the decision of the FtT to allow the appellant's appeal against the refusal of permanent residence on 17 November 2015.
5. The respondent's appeal to the Upper Tribunal was on the basis that there had been a material misdirection of law/inadequate reasoning in relation to the appellant's financial circumstances.
6. Following a hearing on 25 May 2016 I agreed with the respondent's submission that there had been a material error of law and made appropriate directions for the filing of additional evidence.
7. The case was relisted for 1 July 2016. I was informed that the appellant wished to "withdraw the appeal". As the present appeal is to the Upper Tribunal by the respondent it seems on proper consideration the appellant cannot withdraw the appeal but I will treat the application to withdraw the appeal as a concession that the respondent's appeal against the decision of the FtT should be allowed by consent.
8. Accordingly, I allow the respondent's appeal against the decision of FtT and set aside the decision of the FtT. It follows that the decision of the respondent dated 13 March 2016 to refuse the appellant permanent residence in the UK stands.

Notice of Decision

The respondent's appeal is allowed.

No anonymity direction is made.

Signed

Date: 11th July 2016

Deputy Upper Tribunal Judge Hanbury

TO THE RESPONDENT **FEE AWARD**

The appellant's appeal before the FTT stands dismissed and therefore there can be no fee award.

Signed

Date: 11th July 2016

Deputy Upper Tribunal Judge Hanbury