



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

Appeal Number: EA/03174/2018

THE IMMIGRATION ACTS

**Heard at Birmingham CJC
On 23 August 2019**

**Decision & Reasons Promulgated
On 9 October 2019**

Before

UPPER TRIBUNAL JUDGE PERKINS

Between

WALEED AWAN

(anonymity direction not made)

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr J Holt of Counsel instructed by Eric Smith Law Limited

For the Respondent: Mrs H Aboni, Senior Home Office Presenting Officer

DECISION AND REASONS

1. This is an appeal against a decision of the First-tier Tribunal dismissing the appeal of the appellant against the decision of the Secretary of State refusing him a residence card confirming a right to reside in the United Kingdom.
2. As was identified by Upper Tribunal Judge Lindsley when she gave permission, there is a fundamental problem in the adverse credibility finding. There is no need to spell it out in great detail; the essential point is that the judge said, wrongly, that there was no evidence that money was paid into an independent person's bank account when there plainly

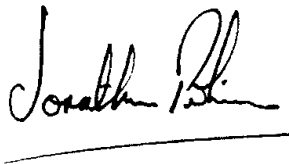
was such evidence. This has been explained in some detail before me and Mrs Aboni, entirely sensibly, accepts the point is made out. This means there is an adverse credibility finding for an entirely unjustified reason and this means that the adverse credibility findings are unsafe.

3. This is a case where credibility is important and therefore I have to say the error is material and I set aside the decision.
4. Before me the parties agree that the proper remedy is that the case be reheard in the First-tier Tribunal.
5. This is not a case where there are findings to say if this is a case where the case has to be heard again and I therefore set aside the decision of the First-tier Tribunal.

Notice of Decision

6. I find there has been an error of law and I direct that the case be heard again in the First-tier Tribunal in Birmingham.

Signed
Jonathan Perkins
Judge of the Upper Tribunal

A handwritten signature in black ink, appearing to read 'Jonathan Perkins', written over a horizontal line.

Dated 7 October 2019