



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

Appeal Number: EA/04318/2018

THE IMMIGRATION ACTS

**Heard at Bradford
On 10 July 2019**

**Decision & Reasons Promulgated
On 09 August 2019**

Before

UPPER TRIBUNAL JUDGE LANE

Between

**CHUKIWUDI PRINCEHENRY OKERERE
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

DECISION AND REASONS

1. The appellant, a citizen of Nigeria, was born on 15 September 1975. He appealed to the First-tier Tribunal against a decision of the Secretary of State, which is dated 5 June 2018, to refuse to issue him a residence card. The First-tier Tribunal, in a decision promulgated on 26 March 2019, dismissed the appeal. The appellant now appeals, with permission, to the Upper Tribunal.
2. The grant of permission reads as follows:

“It is arguable that there is been a procedural error as the Tribunal Service was informed on 2 January 2019 and also on 18 January 2019 that the appellant wish to have his appeal considered at an oral hearing. The judge was informed of this and 18 January 2019. On 19 January he stated that he had already written a decision up and that it just needed proofreading, although he has dated the decision 18

January 2019. However, it was not promulgated until 20 January 2019
[should read 26 March 2019]."

3. At the initial hearing in the Upper Tribunal Mrs Pettersen, who appeared for the Secretary of State, agreed that the judge had erred in law. It was clear that the appellant had wanted an oral hearing and the judge had determined the appeal on the papers. She submitted that this amounted to a procedural irregularity and the decision of the First-tier Tribunal should be set aside.
4. I agree. The judge appears to have ignored or overlooked the request for an oral hearing. He should not, knowing that the appellant wanted an oral hearing, have proceeded to determine the appeal on the papers.

Notice of Decision

The decision of the First-tier Tribunal which was promulgated on 26 March 2019 is set aside. The appeal is returned to the First-tier Tribunal for that tribunal to remake the decision at or following a hearing.

Signed

Date 20 JULY 2019

Upper Tribunal Judge Lane