



**Upper Tribunal
(Immigration and Asylum Chamber)
EA/00497/2018**

Appeal Number:

THE IMMIGRATION ACTS

Heard at Field House

On 11 October 2018

**Decision and Reasons
Promulgated**

On 18 October 2018

Before

UPPER TRIBUNAL JUDGE JOHN FREEMAN

Between

**OLUSEGUN OLUKUNLE AGUNBIADE
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Dr C Ikegwuruka (Legal Representative)

For the Respondent: Mr S Walker

DECISION AND REASONS

This is an appeal by a citizen of Nigeria, born in 1979, against the decision of Judge Martin Loughridge, made at Newport without a hearing on 24 April. The appeal was against refusal of a residence card on the basis of a retained right of residence from the appellant's former marriage. As the necessary evidence to show he would have been a 'qualified person' did not seem to be before the judge, the appeal was dismissed.

2. In fact, though the judge was not to know of this, proof of posting of the appellant's bundle was supplied on the permission application, which showed that it had been posted on 26 February, one day inside the period given in the directions from the Tribunal. The bundle was not on the file, but has now been filed by Mr Ikegwuruka. It is accepted by Mr Walker for the Home Office that something went wrong, and the decision must be set

aside: the case will come back before another judge. Since the papers are now filed, that again can take place without a hearing, unless the appellant applies for one, in which case it should be granted without payment of any extra fee.

**Appeal dismissed:: first-tier decision set aside
Fresh consideration in First-tier Tribunal, not by Judge Loughridge**

A handwritten signature in black ink, appearing to be 'JL Loughridge', written in a cursive style.

(a judge of the Upper Tribunal)

Dated 12 October 2018