



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

Appeal Number: HU/11117/2015

THE IMMIGRATION ACTS

**Heard at Field House
On 8th December 2017**

**Decision & Reasons
Promulgated
On 13th February 2018**

Before

DEPUTY UPPER TRIBUNAL JUDGE DAVIDGE

Between

**ATHMANE EN NASSIRI
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr T Caisford, Counsel, Wilson Solicitors LLP
For the Respondent: Mr T Wilding, Home Office Presenting Officer

**DECISION AND REASONS
EXTEMPORE JUDGMENT**

1. The Appellant is a Moroccan citizen who appeals a decision of Judge Walters dismissing her appeal against a refusal of leave to remain on Family and Private life grounds. The Judge made significant adverse credibility findings. I can deal with this matter summarily because Mr Wilding has properly conceded before me that the evidence supporting the application for permission to appeal establishes an incontrovertible error of fact underlying Judge Walter's decision dismissing the Appellant's appeal. In short, the judge found that the Appellant had lied to him about

the reason as to why his witnesses were not called to support their written statements. The Appellant had said it was because he had not been told that it was possible to ask the witnesses to come to court. The judge found that that was an unreasonable and inexplicable explanation.

2. In the event evidence from the solicitors instructed has revealed that the position was entirely as described by him. The solicitors had not told him that the witnesses could or should be called. The solicitors had taken the view that the case was strong enough without the witness evidence and so had not discussed the position with him. The judge's conclusion as to the credibility of the Appellant was significantly affected by that adverse credibility finding to the point that once that error is corrected it is agreed that the whole decision is unsafe.
3. By consent I have set the decision aside and the appeal is remitted to the First-tier Tribunal to reach a new decision.

Notice of Decision

The decision of the First -tier Tribunal reveals a material error of law and I set it aside.

The matter is remitted to be heard de-novo by a judge other than Judge Walters.

No anonymity direction is made.

Signed

Date

Deputy Upper Tribunal Judge Davidge