



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

Appeal Number: EA/00542/2016

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 22 February 2018**

**Decision & Reasons Promulgated  
On 26 February 2018**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE CHAPMAN**

**Between**

**MR BESHEL PLACIPUS IKWEN  
(ANONYMITY DIRECTION NOT MADE)**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: In person

For the Respondent: Mr. T. Melvin, Home Office Presenting Officer

**DECISION AND REASONS**

1. The Appellant is a national of Nigeria, born on 14.2.76. He applied for a residence card as confirmation of a right to reside in the United Kingdom as a person in a durable relationship with an EEA national. This application was refused by the Respondent in a decision dated 24.12.15, with reference to regulation 8(5) and 17(4) of the Immigration (EEA) Regulations 2006.

2. His appeal came before First tier Tribunal Judge Cameron for hearing on the papers on 24.4.17. The Judge took account of the

decision in Sala (EFMs: right of appeal) [2016] UKUT 00411 (IAC) and found there was no right of appeal and proceeded to dismiss the appeal for want of jurisdiction.

3. An application for permission to appeal was made by the Appellant, who is unrepresented, two days out of time. In a decision dated 10.1.18, Judge of the First tier Tribunal Osborne extended time, in the interests of justice and granted permission to appeal on the basis that the decision in Sala (op cit) had been overturned and the Appellant is entitled to have his appeal re-listed.

4. No rule 24 response was filed by the Respondent but, at the hearing before me, Mr Melvin accepted that in light of the decision in Khan [2017] EWCA Civ 1755, Sala had been wrongly decided and the appropriate course was for the appeal to be remitted back to the First tier Tribunal for a substantive hearing.

#### Decision

5. In light of a material change in the jurisprudence, the decision of First tier Tribunal Judge Cameron contains a material error of law *viz* that he had no jurisdiction to hear the appeal in light of the decision in Sala (op cit).

6. I remit the appeal for a substantive hearing before the First tier Tribunal.

Rebecca Chapman  
Deputy Upper Tribunal Judge Chapman

22 February 2018