



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

Appeal Number: EA/06829/2018

THE IMMIGRATION ACTS

**Heard at Field House
On 8th July 2019**

**Decision & Reasons Promulgated
On 12th July 2019**

Before

UPPER TRIBUNAL JUDGE COKER

Between

ABRAHAM UNCHE KINGSLEY

Appellant

And

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr A L Rashid, instructed by Carlton Law Chambers
For the Respondent: Mr L Tarlow, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. In a decision promulgated on 3rd May 2019, First-tier Tribunal judge M A Khan dismissed the appellant's appeal against a decision by the respondent refusing him a permanent residence card under regulations 10(5), 15 and 18 Immigration (European Economic Area) Regulations 2016 confirming his retained rights of residence as the former spouse of an EU national exercising Treaty Rights.

2. Permission to appeal was granted by First-tier Tribunal Judge Robinson on the grounds, inter alia, that the First-tier Tribunal judge had erred in law in finding the appellant had not been in established employment for the relevant time.
3. Mr Tarlow accepted the First-tier Tribunal judge had erred in law and that the decision had to be set aside to be remade.

Remaking the decision

4. Mr Tarlow accepted that the appellant's former spouse had been exercising Treaty Rights at the date of initiation of divorce proceedings. He also acknowledged that the evidence confirmed that the appellant was working at the date of divorce and that the appellant had been in the UK for more than five years.
5. The appellant plainly meets the requirements for the grant of permanent residence.
6. I allow the appeal

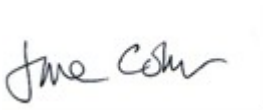
Conclusions:

The making of the decision of the First-tier Tribunal did involve the making of an error on a point of law.

I set aside the decision.

I re-make the decision in the appeal by allowing the appeal against the decision to refuse the appellant permanent residence.

Date 8th July 2019



Upper Tribunal Judge Coker