



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

Appeal Number: EA/04418/2018

THE IMMIGRATION ACTS

**Heard at Field House
On 22 May 2019**

**Decision & Reasons Promulgated
On 4 June 2019**

Before

UPPER TRIBUNAL JUDGE LANE

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

**COLLINS SOMIAH
(ANONYMITY DIRECTION NOT MADE)**

Respondent

Representation:

For the Appellant: Mr Whitwell, Senior Home Office Presenting Officer

For the Respondent: Mr Antwi-Boasiako

DECISION AND REASONS

- 1.** I shall refer to the appellant as the 'respondent' and the respondent as the 'appellant', as they appeared respectively before the First-tier Tribunal. The appellant was born 1 May 1988 is a male citizen of Ghana. On 7 June 2018, the Secretary of State refused the appellant's application for a residence card. The appellant appealed to the First-tier Tribunal which in a decision promulgated on 4 March 2109, allowed the appeal. The Secretary of State now appeals, with permission, to the Upper Tribunal.
- 2.** In the refusal letter, the Secretary of State considered that the appellant had failed to prove that he had complied with legal requirements in Ghana

contracting valid proxy marriage. The judge found that the appellant had proved to the necessary standard that is marriage valid and also that the sponsor was exercising Treaty Rights at all material times.

3. The Secretary of State complains that the judge accepted the claimed identity and nationality the sponsor by reference only to oral evidence; that, in the absence of documentary evidence, the judge accepted the evidence of the sponsor and her sister that their parents are Ghanaian citizens; that the judge accepted that necessary formalities of the marriage had been complied with notwithstanding the absence of evidence as to the payment of a dowry; that there was no requirement of a letter from a registrar confirming that the marriage was valid; that the appellant's sponsor, a Swiss citizen, was exercising Treaty Rights in the United Kingdom by working as a cleaner.
4. I find that a judge has produced a sustainable decision which is not flawed by legal error. The judge heard evidence from the sponsor and her sister and he was entitled to accept that evidence as accurate and true. Documentary corroborative evidence would, perhaps, have been desirable but it was not necessary for the appellant to succeed in his appeal was the judge had to determine the appeal and best evidence before him. The witnesses who gave oral evidence were capable of providing the necessary facts required to satisfy the judge by reference to the standard of proof of the balance of probabilities. Further, the judge was entitled to conclude, from the evidence of Ghanaian law produced to him appellant's representative, that a letter from a registrar was not required as evidence of a valid marriage in addition to a copy of a marriage certificate. Likewise, it was open to the judge to accept oral evidence regarding sponsors work which was corroborated by the production of wage slips.
5. I accept that another judge confronted with the same evidence may have reached a different conclusion. However, that is not the point. It was open to the judge, who had the opportunity, denied to the Upper Tribunal, to hear oral evidence and to assess its accuracy to reach the findings which he has reached. I can identify no error of law requires me to set aside the First-tier Tribunal decision.

Notice of Decision

This appeal is dismissed.

Signed

Date 30 May 2019

Upper Tribunal Judge Lane