



**Upper Tribunal
(Immigration and Asylum Chamber)** Appeal Number: EA/05124/2017

THE IMMIGRATION ACTS

**Heard at Field House
On 14 March 2019**

**Decision & Reasons
Promulgated
On 18 March 2019**

Before

DEPUTY UPPER TRIBUNAL JUDGE JORDAN

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

SALL

Respondent

Representation:

For the Secretary of State: Mr T. Melvin, Senior Presenting Officer

For the Respondent: No appearance

DECISION AND REASONS

1. The Secretary of State is the appellant in the Upper Tribunal.
2. Mr Sall and his solicitors, Waterstone Solicitors, were advised of the hearing date and have acknowledged it in Waterstone's letter of 12 March 2019.
3. In the letter the appellant has sought to withdraw his appeal but, in doing so, fails to acknowledge that it is the Secretary of State who remains the appellant, even in the re-making of the decision. As a respondent to the appeal in the Upper Tribunal, Mr Sall is not permitted to withdraw the appeal.

4. There was no appearance of Mr Sall or his representative at the hearing before me. This is unsurprising given his wish no longer to participate in the appeal. In particular, he has failed to adduce the evidence necessary to demonstrate that, as an adult in paid employment, he was unable to support himself on his income and therefore fell to be considered as a dependant of his father.

DECISION

Having found that the decision of the First-tier Tribunal should be set aside,

- (i) I allow the appeal of the Secretary of State;
- (ii) I re-make the decision by dismissing the appeal of Mr Sall against the decision of the Secretary of State made on 12 May 2017 refusing his application for a permanent residence card.

ANDREW JORDAN
DEPUTY UPPER TRIBUNAL JUDGE
14 March 2019