



**Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: AA/10376/2014**

THE IMMIGRATION ACTS

**Heard at Field House
On 8 May 2015**

**Decision and Reasons
Promulgated
On 12 May 2015**

Before

Deputy Upper Tribunal Judge MANUELL

Between

**MR HUMPHREY DUBE
(NO ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr A Chohan, Authorised Representative (Genesis Law Associates Ltd)

For the Respondent: Ms A Brocklesby-Weller, HOPO

DETERMINATION AND REASONS

Introduction

1. The Appellant appealed with permission granted by First-tier Tribunal Judge Simpson on 6 March 2014 against the decision of First-tier Tribunal Judge Lodge made in a decision and reasons promulgated on 5 February 2015 dismissing the

Appellant's asylum, humanitarian protection and human rights appeals.

2. The Appellant is a national of Zimbabwe, born on 5 December 1965. He had appealed against his removal from the United Kingdom, a decision taken by the Respondent on 17 November 2014. The Appellant had entered the United Kingdom some six years before making an asylum claim. He was a member of Zanu-PF but maintained that as teacher he had been forced to join. He had left Zimbabwe while under investigation by Zanu-PF for supporting the MDC. He had also claimed that he had a family life in the United Kingdom with his partner.
3. When granting permission to appeal, First-tier Tribunal Judge Simpson considered that it was arguable that Judge Lodge had erred in his assessment of the risk on return. It was arguable that he had given insufficient attention to the Appellant's Shona ethnicity and to the country background evidence when considering the asylum claim. No merit was found in the assertion that the Article 8 ECHR claim had not been adequately addressed.
4. The Respondent filed notice under rule 24 indicating that the appeal was opposed. Standard directions were made by the tribunal and the appeal was listed for adjudication of whether or not there was a material error of law.

Submissions

5. Mr Chohan for the Appellant relied on the grounds of onwards appeal earlier submitted, together with the grant of permission to appeal. The judge had given undue weight to minor discrepancies. The judge had failed to consider the consequences of the Appellant's Shona ethnicity and to the fact that the Appellant's membership of Zanu-PF was involuntary. There was no good reason to have expected that the Appellant was on a "wanted" list to the extent that he was unable to leave Zimbabwe. The finding that relocation to Bulawayo was safe, possible and reasonable was at variance with the objective evidence. The judge's findings were unsound in all respects, including as to the Appellant's United Kingdom relationship with his partner. The decision and reasons should be set aside and the appeal reheard.
6. Ms Brocklesby-Weller for the Respondent relied on the Respondent's rule 24 notice. She submitted that the decision and reasons disclosed no error of law. The fact that the Appellant admitted his Zanu-PF membership was

decisive, coupled with the judge's findings that the Appellant had not participated in MDC activities in the United Kingdom and was effectively apolitical: see the answer to Q78 of the asylum interview record. The Appellant had made no claim of physical harm in Zimbabwe and indeed had claimed that due process had been observed by Zanu-PF when (allegedly) investigating him. In any event the situation in Zimbabwe was much improved since 2007. The Appellant was not at risk as a teacher as the CG cases showed. The judge had examined the case in the light of the objective evidence. The Appellant was in contact with his family in Zimbabwe, as he had admitted. The judge had been entitled to reach his adverse conclusions as to the Appellant's claimed family life in the United Kingdom and it was difficult to see what other conclusion he could properly have reached. The decision and reasons should stand.

7. In reply, Mr Chohan reiterated his client's case. The adverse credibility findings were in effect unsound. The objective evidence had not been properly considered, particularly with regard to the Appellant's Shona ethnicity.

No material error of law

8. The tribunal accepts Ms Brocklesby-Weller's submissions, save for the judge's treatment of the Appellant's Shona ethnicity and the placing of that into the proper context of the current country background evidence when approaching the issue of relocation within Zimbabwe. But, as the tribunal will explain below, any error as to that aspect of the appeal was not material and certainly would not justify setting aside the decision and reasons.
9. The judge heard and saw the Appellant and his partner and found that both were wholly unreliable witnesses. The judge found that the Appellant was not at risk of serious harm on return to Zimbabwe. It was admitted that the Appellant was a member of Zanu-PF and the judge gave full and sustainable reasons at [23] of the decision for finding that the Appellant was not under investigation in Zimbabwe for supporting the MDC. The Appellant admitted that he had not participated in MDC activities in the United Kingdom. The judge was entitled to factor into his credibility assessment the Appellant's enormous and inadequately explained delay in claiming asylum.
10. There was, strictly speaking, no need for the judge to consider the possibility of relocation, given his full and adverse primary findings of fact. Hence, although the judge failed to consider the country background evidence about

possible problems for persons of unchallenged Shona ethnicity moving to, say, Bulawayo, the error of law is not material as relocation was not needed. The Appellant was quite simply not at risk from the authorities. The judge sufficiently addressed the relevant case law as to teachers in Zimbabwe at [22] of the decision and reasons.

11. The grant of permission to appeal did not formally extend to the judge's findings as to the Article 8 ECHR claim. Nevertheless the tribunal allowed Mr Chohan to make submissions. As indicated above, these failed to establish anything remotely approaching a material error of law. The decision and reasons shows that Judge Lodge gave careful attention to the evidence of the Appellant and his partner and was not persuaded that their relationship had continued despite what were admitted to have been ups and downs: see [28]. There was thus no family life. It was obvious that as the Appellant was a mature man who had spent most of his life in Zimbabwe, and had family there, he had retained significant ties and there were no significant obstacles to his reintegration into his country of origin.
12. The decision contained no material error of law. There is no basis for interfering with the judge's decision to dismiss the Appellant's appeal, which dismissal must stand.

DECISION

The tribunal finds that there is no material error of law in the original decision, which stands unchanged

Signed

Dated 08 May 2015

Deputy Upper Tribunal Judge Manuell