



**Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: AA/03825/2014**

THE IMMIGRATION ACTS

**Heard at Field House
On 25 February 2016**

**Decision & Reasons Promulgated
On 3 March 2016**

Before

**The Hon Lord BURNS
(Sitting as a Judge of the Upper Tribunal)
Deputy Upper Tribunal Judge MANUELL**

Between

**[M M]
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: In person

For the Respondent: Mr T Wilding, Home Office Presenting Officer

DETERMINATION AND REASONS

Introduction

1. The Appellant appealed with permission granted by First-tier Tribunal Judge PJG White on 6 January 2016 against the decision of First-tier Tribunal Judge Young made in a decision and reasons promulgated on

15 October 2015 dismissing the Appellant's asylum, humanitarian protection and human rights appeals.

2. The Appellant is a national of Zimbabwe, born on 15 November 1992. She left Zimbabwe on a valid United Kingdom visit visa and entered the United Kingdom on 16 July 2013. She claimed asylum on 2 January 2014, which was refused on 16 May 2014. The Appellant had stated that she feared to return to Zimbabwe because of her political opinion. The Appellant also made an Article 8 ECHR claim based on her family life in the United Kingdom. At the hearing first fixed for the hearing of her asylum appeal, the Appellant raised a further claim, namely that she feared return to Zimbabwe because of her lesbian sexual orientation. She was granted an adjournment in order to submit a full witness statement, and for the Secretary of State to review her new case.
3. Following an adjournment lasting a number of months, the appeal started afresh before Judge Young. He found that the Appellant was not at real risk on return to Zimbabwe, applying CM (EM country guidance: disclosure) Zimbabwe CG [2013] UKUT 00059 (IAC). He found that the Appellant was not a reliable witness. He found that the Appellant was not at risk because of her claimed MDC profile nor that she was lesbian. The Appellant had no family life in the United Kingdom. Thus the appeal was dismissed.
4. When granting permission to appeal, First-tier Tribunal Judge White considered that it was arguable that Judge Young's adverse credibility findings were ill founded, and that the judge had not taken into account all of the evidence when assessing risk on return.
5. The Respondent filed notice under rule 24 dated 22 January 2016 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

6. The Appellant appeared in person, accompanied by her friend Mr Tau Chamboko. Communication was established through the tribunal's Shona interpreter. The tribunal explained that as Mr Chamboko had given evidence before the First-tier Tribunal, he would be unable to address the tribunal on the question of whether the First-tier Tribunal decision and reasons should be set aside because of one or more material errors of law. The tribunal would deal with issues of law on the Appellant's behalf and the Appellant would be able to address the tribunal if she wished.
7. In summary, the Appellant indicated that she wished to rely on her grounds of appeal, as submitted when seeking permission to appeal. This document prepared by the Appellant had referred by number to

the individual paragraphs of the First-tier Tribunal's judge's determination. The judge had not examined the evidence the Appellant had submitted properly. It had been hard to declare her orientation. The Appellant's case was genuine and she was very afraid of returning to Zimbabwe. There had been inadequate findings and no proper analysis. By implication the decision and reasons should be set aside, and the appeal reheard before another First-tier Tribunal judge.

8. Mr Wilding for the Respondent relied on the Respondent's rule 24 notice. He submitted that the decision and reasons disclosed no error of law. The judge had examined the evidence in detail, as his careful summary of the witnesses' evidence showed. Both elements of the Appellant's case were considered. The Appellant had been disbelieved. The Appellant's complaints at most were just a disagreement with the judge's proper findings. The judge had explained why he found that there was no real depth to the evidence and that the Appellant was not credible. The Article 8 ECHR findings were brief but adequate. The decision and reasons should stand.
9. The Appellant in reply reiterated her fears of return.

No material error of law

10. The tribunal reserved its decision, which now follows. In the tribunal's view, the terms of the grant of permission to appeal were a generous response to what was in essence a weak reasons challenge, based on a superficial reading of the decision in issue. The tribunal agrees with Mr Wilding that the grounds are no more than disagreement with the judge's proper and sustainable findings.
11. The current country background evidence concerning Zimbabwe was not in dispute before Judge Young, who correctly applied CM (above). The Appellant's appeal turned on her credibility and, as that was found entirely wanting, there was no need for any detailed discussion of the country evidence.
12. As Mr Wilding pointed out, the analysis performed by Judge Young was indeed a careful one. The evidence of the two witnesses was set out at some length. No error in either section was identified. Similarly, the judge set out the competing submissions of both parties. The judge then explained why he reached his adverse credibility findings, in logical and persuasive order. The reasons he gave, which the tribunal need not repeat here, were multi-faceted and substantial. The judge was entitled to take into account the Appellant's substantial delay in claiming asylum post entry to the United Kingdom and the even later addition of a fresh ground of claim. The submission that Judge Young failed to consider the Appellant's claims properly must be firmly rejected.

13. The brief dismissal of the Appellant's Article 8 ECHR family life claim was all that was required in light of the other findings which the judge had reached. In the tribunal's judgment, the judge's decision was a comprehensive reflection on the various issues raised in the appeal, and his findings were balanced and well structured. He demonstrated anxious scrutiny throughout the determination. There was no 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

Deputy Upper Tribunal Judge Manuell