



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

Appeal Number: PA/09207/2016

THE IMMIGRATION ACTS

**Heard at City Centre Tower Decision & Reasons
Birmingham On 8th August 2017 Promulgated On 25th August 2017**

Before

DEPUTY UPPER TRIBUNAL JUDGE RENTON

Between

**LUCIA MARIA CHAKANYUKA
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr A Billie

For the Respondent: Mrs M Aboni, Home Office Presenting Officer

DECISION AND REASONS

Introduction

1. The Appellant is a female citizen of Zimbabwe born on 10th September 1968. The Appellant first arrived in the UK on 13th November 2001 when she was refused leave to enter but given temporary admission. She

absconded and was not heard of again until 21st December 2015 when she was arrested on suspicion of using false documents. On 3rd February 2016 the Appellant applied for asylum. That application was refused for the reasons given in the Respondent's letter of 2nd August 2016. The Appellant appealed and her appeal was heard by First-tier Tribunal Judge Pooler (the Judge) sitting at Stoke on Trent on 16th March 2017. He decided to dismiss the appeal on asylum and human rights grounds for the reasons given in his Decision dated 27th March 2017. The Appellant sought leave to appeal that decision, and on 25th April 2017 such permission was granted.

Error of Law

2. I must first decide if the decision of the Judge contained an error on a point of law so that it should be set aside.
3. The Judge dismissed the appeal because he found the Appellant's evidence to be lacking in credibility and found that the Appellant would not be at risk on return to Zimbabwe. The Judge also found that the decision of the Respondent did not amount to a breach of the Appellant's Article 8 ECHR rights as she did not satisfy the requirements of paragraph 276ADE of HC 395. Finally, the Judge considered the Appellant's Article 8 rights outside of the Immigration Rules and decided that there was no disproportionate breach of those rights.
4. At the hearing, Mr Billie argued that the Judge had erred in law in coming to those conclusions. In respect of ground 1 of the grounds of application which related to the paragraph 276ADE decision, Mr Billie argued that the Judge had failed to consider all of the obstacles to the Appellant's successful integration on return to Zimbabwe which the Appellant had relied upon at the hearing. There was a large quantity of documentary evidence relating to those obstacles and supporting the Appellant's evidence contained at pages 91 to 271 inclusive of the Appellant's Bundle. Mr Billie argued further that as regards risk on return, the Judge had failed to consider the Appellant's prolonged absence from Zimbabwe and that her unsuccessful asylum application would place the Appellant at risk on return in accordance with the guidance provided by the decision in **HS (Zimbabwe) v SSHD EWCA Civ 915**. In particular, the Judge had not considered the problems caused by the collapse of the health system in Zimbabwe.
5. In response, Mrs Aboni referred to the Rule 24 reply and argued that there had been no such errors of law. The Judge had directed himself appropriately and had made findings open to him on the evidence before him. The Judge did not find the Appellant credible and his conclusions flowed from that decision. The Judge fully considered the risk on return on the basis of his finding of credibility at paragraph 22 of the Decision. In any event, the Judge came to an alternative decision that internal relocation would not be unduly harsh. The Judge dealt with the health system in Zimbabwe at paragraph 32 of the decision, and overall he

considered all the issues in the appeal and gave adequate reasons for his decision.

6. I find no material error of law in the decision of the Judge which I therefore do not set aside. The Judge made a finding that the Appellant was not credible which he fully explained and which has not been challenged in this appeal. It follows that the Judge did not accept the Appellant's evidence relating to factors which might put her at risk on return. The finding of a lack of credibility extended to the factors relied upon by the Appellant to establish her case under paragraph 276ADE. I am satisfied that Mrs Aboni was correct to argue that the Judge dealt with all issues in the appeal. Even if it is true that the Appellant would be at risk on return to her home area of Mhondoro, the Judge found that it would not be unduly harsh for her to relocate in Harare. The Judge specifically dealt with the documentary evidence at paragraphs 32 to 35 inclusive of the Decision and dealt with with the issue of whether the Appellant's health and the health services available in Zimbabwe would entitle the Appellant to relief. I find that the Judge came to conclusions that were open to him on the evidence and which he fully explained. For these reasons I find no error of law in the decision of the Judge.

Notice of Decision

The making of the decision of the First-tier Tribunal did not involve the making of an error on a point of law.

I do not set aside that decision.

The appeal to the Upper Tribunal is dismissed.

Anonymity

The First-tier Tribunal did not make an order for anonymity. I was not asked to do so, and indeed find no reason to do so.

Signed

Date 25th August 2017

Deputy Upper Tribunal Judge Renton