



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: PA/07384/2017

THE IMMIGRATION ACTS

Heard at Field House
On 20 March 2018

Decision & Reasons Promulgated
On 23 March 2018

Before

Deputy Upper Tribunal Judge MANUELL

Between

Mr LUTCHER ALBANO
(ANONYMITY DIRECTION NOT MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: No appearance

For the Respondent: Ms J Isherwood, Home Office Presenting Officer

DETERMINATION AND REASONS

Introduction

1. The Appellant appealed with permission granted by First-tier Tribunal Judge Maller on 4 December 2017 against the decision and reasons of First-tier Tribunal Judge Fowell who had dismissed the Appellant's protection and human rights appeal in a decision and reasons promulgated on 21 October 2017.

2. The Appellant is a national of Angola. He had claimed he was a political activist, supporting human rights, and hence was at risk from the oppressive government in power there. The Appellant was unrepresented before the judge. The decision and reasons shows the care which the judge took to enable the Appellant to present his appeal, including assisting him to prepare his response to the Home Office Presenting Officer's closing submissions. The judge found that the Appellant's claims were not supported by such current country background evidence as was available, and were otherwise lacking in credibility. The Appellant was not from Cabinda province, which was subject to a long running dispute. Thus the Appellant was found not to have discharged the burden of proof and the appeal was dismissed.
3. Permission to appeal was granted to the Appellant out of time by First-tier Tribunal Judge Mailer because he considered that the judge had arguably erred by failing to consider the Angola CG decision: MB (Cabinda risk) CG [2014] UKUT 434.
4. Standard directions were made by the tribunal.
5. When the appeal was called on for hearing, there was no appearance by the Appellant or his representative nor any application for an adjournment in consequence. Having satisfied itself that notice of the time, date and place of the hearing had been duly served on the Respondent, the tribunal decided that it should proceed in the Respondent's absence and that it was just and fair to do so.

Submissions

6. Ms Isherwood for the Respondent submitted that there was no error of law at all. The Appellant was not from Cabinda as the judge had found and there was no scope for MB (above) to apply. The on-wards appeal should be dismissed.

Discussion – no error of law

7. No further communication had been received from the Appellant nor any representative by the time this determination was prepared. The tribunal accepts the submissions made by Ms Isherwood. It is not easy to see why permission to appeal was granted. Not only was it no part of the Appellant's case that he was from Cabinda province, making that Upper Tribunal CG decision irrelevant, the judge had examined all of the most recent country background material available when reaching his decision, and had actively sought the Appellant's response and comments. The current information signally failed to support the Appellant's claims. The burden of proof was at all stages on the Appellant and the judge was right to find that the burden had not been discharged. There can be no doubt that anxious scrutiny was applied and that the Appellant's evidence was

examined with great care. Indeed, the judge adopted a clear and independent approach and differed in part from the Home Office's views. There was no error of law in the decision and the appeal must be dismissed.

DECISION

The onwards appeal is dismissed

The original decision and reasons stands unchanged

Signed

Dated 20 March 2018

Deputy Upper Tribunal Judge Manuell