IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2024-001412

First-tier Tribunal No: PA/00867/2023

THE IMMIGRATION ACTS

Decision & Reasons Issued:

On 4th of June 2024

Before

DEPUTY UPPER TRIBUNAL JUDGE SAFFER

Between

A
(Anonymity order made)

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:
For the Appellant: Mr Mupara of Counsel
For the Respondent: Mr Wain a Senior Home Office Presenting Officer

Heard at Field House on 20 May 2024

Order Regarding Anonymity

Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, the Appellant is granted anonymity.

No-one shall publish or reveal any information, including the name or address of the Appellant, likely to lead members of the public to identify the Appellant. Failure to comply with this order could amount to a contempt of court.

DECISION AND REASONS

1. The Appellant was born on 9 June 1997. He is a citizen of Zimbabwe. He appealed against the decision of the Respondent dated 31 May 2022, refusing his protection claim made on 21 September 2020.

2. The Appellant appeals against the decision of FTT Judge Hamilton, promulgated on 24 January 2024, dismissing the appeal.

Permission to appeal

3. Permission was granted by FTT Judge Lawrence on 15 March 2024 who stated it is arguable that the Judge:

> "4. ...materially erred in law by failing to engage with or explain adequately why they departed from opinions stated by the country expert, and that the judge materially erred in law with regard to the assessment of the weight to be properly afforded to the report, for the reasons stated in the grounds.
> 5. ..made contradictory findings regarding the possibility that the official from the Zimbabwean Embassy could have bluffed the appellant into disclosing information about his asylum claim."

4. Permission was refused in relation to the way in which the Judge approached the delay issue and whether that was the sole reason for the Judge's decision.

5. An application was made on 5 April 2024 and argued before me to adduce fresh evidence (the details of which I have excluded as that is only relevant if the Judge made a material error of law) and renew those grounds on the basis that the grounds have merit as follows (excluding duplication):

> "Permission to extend time and adduce new evidence
> 2. The deadline was 8 April 2024. The Application is three days out of time... The delay was for a short period of time.
> 3. ... It is arguable that the FTTJ gave unduly significant weight to an immaterial matter.
> 4. ... the Appellant stated in his evidence that he did not immediately lodge Further Submissions as he had been advised to wait for the outcome of his outstanding appeal. At para 50, the FTTJ found that the explanation about delay raised concerns about reliability of the Appellant's claim. Clearly, the respondent's records showing that the Respondent advised the Appellant not to lodge further submission pending the outcome of the appeal is significant. It shows that the Appellant's explanation is a truthful account.
> Ground one: permitting a procedural or other irregularity capable of making a material difference to the outcome or the fairness of the proceedings.
> 5. ... First, the decision under appeal is dated 31 May 2022 [RB/6]...the Respondent was refusing Further Submissions lodged on 17 June 2019. Part of the submissions were based on the re-documentation interview [RB/8-9].
> 6. Second, Kothala & Co addressed the delay in raising the fear based on the re-documentation interview in their letter dated 4 September 2020 [RB/89]. The Respondent's response was by a decision dated 31 May 2022. In that decision, the Respondent took several issues. Delay was not one of them. In preparing his appeal, the Appellant addressed the issues raised in the FRRL. It was therefore not necessary to address delay as it was not an issue.
> 7. At para 51 the FTTJ found the delay in lodging further *raises serious concerns* about the credibility at the core of the Appellant's claim. It is a material misdirection for the FTTJ to rule that it should have been obvious to the Appellant that the delay

needed to be explained. The Appellant was aware of the delay. He addressed it in a letter dated September 2020 providing reasons for the same. The Respondent engaged with the Appellant's submissions and took several issues. Delay was not one of the issues. On any analysis, it was clear that delay was not an issue in the appeal. There was no reason for it to be addressed and/or evidenced. The FTTJ has not explained why he thought it would have been obvious that the delay needed to be explained. There was no need to seek to adjourn the appeal based on a peripheral issue.

8. ... the FTTJ say there was no evidence to support this suggestion. That is factually incorrect. The Appellant provided oral testimony to that effect. It is not clear why the FTTJ would not consider oral testimony as evidence. Second, the FTTJ erred in law in rejecting the explanation for lack of collaborating evidence. In MAH (Egypt) v Secretary of State for the Home Department [2023] EWCA Civ 216 the Court ruled that that there is no requirement that the applicant must adduce corroborative evidence…

Ground two: It is a material misdirection in law in consider the impact of delay as fatally damaging to a protection claim.

9. ... At the core (para 53) the FTTJ states that, overall, the information provided by Dr Cameron is broadly speaking consistent with the Appellant's evidence and adds some limited support to his account. Further, in relation to (sic) EC Zimbabwe, the FTTJ found that, broadly speaking, it is consistent with the Appellant's account. The Appellant's account was that he divulged the details of his asylum claim to an official of the Government of Zimbabwe and he fears persecution as a result. The FTTJ accepted that it was possible that the Appellant was blagged into disclosing details of his asylum claim by a Zimbabwean official. Having made these positive credibility findings, the judge gave no cogent reasons for finding that the Appellant was not credible.…

10. In Chiver [1997] INLR 212 the Tribunal noted that; "it is perfectly possible for an adjudicator to believe that a witness is not telling the truth about some matters, has exaggerated the story to make his case better, or is simply uncertain about matters, but still to be persuaded that the centre piece of the story stands". The Appellant's reasons for delaying claiming asylum are cogent. In any event genuine refugees would not be expelled for being slow in asking for international protection."

6. Mr Mupara additionally submitted that they were of significant importance to the outcome of the appeal.

7. I refused the application to extend time to apply to extend the grounds for these reasons. The production of fresh evidence now having not sought to apply for an adjournment at the hearing to adduce it does not mean that the Judge arguably materially erred in law as the Judge cannot have arguably erred by not considering not before him then. The delay issue was not immaterial as it was litigated and the Appellant was entitled to seek to apply to adjourn the hearing if he felt he was prejudiced at the hearing by it being considered. The weight to attach to the evidence and issues is a matter for the Judge. Submitting an application to extend the grounds three days late is not de minis especially when the Appellant was represented throughout the relevant period by the same representatives who were aware of all the facts. In addition the grounds have no merit for the reasons given when they were refused by Judge Lawrence in these terms with which, having considered them myself, I agree and will not simply reword:

"2. Permission is refused on ground 1. It is not arguable that there was procedural unfairness in the judge's approach to the delay issue mentioned at paragraph 51 of

the decision. The judge records that that matter was put to the Appellant during the hearing. It was open to the Appellant to apply for an adjournment to adduce further evidence to deal with the point if he considered it necessary to do so.
3. Permission is refused on ground 2. It is not arguable that the sole basis for the judge's decision on the protection claim was the delay issue mentioned above. The judge's decision was based on other factors including, for example, the absence of evidence to support the claim that members of the Appellant's family had been recognised as activists in opposition politics, that justified a departure from the findings of the judge who decided the Appellant's previous appeal that the Appellant had not been targeted for involvement in such politics in Zimbabwe prior to coming to the UK, that the Appellant was a leader or high profile activist in such politics, or that anyone with a lower level of political activism would bae targeted by agents of the current regime in Zimbabwe."

The Appellant's grounds seeking permission to appeal

8. The grounds upon which permission to appeal were granted were as follows:

"Ground three: Failing to give reasons or any adequate reasons for findings on material matters
7. At para 53 the FTTJ accepted Dr Cameron's evidence as broadly supporting the Appellant's case ... Dr Cameron's evidence is that, in her opinion, the Appellant was interviewed by a Zimbabwean official and that the Appellant disclosed details of his asylum claim [RB/279]... further, the Appellant is at risk due to the redocumentation and the Criminal Law (Codification and Reform) Act 2022.
8. However, the FTTJ found (para 53) that the Appellant did not disclose the details of his asylum claim to the Zimbabwean official. Dr Cameron is an eminent expert on Zimbabwe. Her reliability as an expert witness [AB/40-41] in not in question. Even the Respondent [RB/19] readily concedes Dr Cameron's expertise. In MS (Zimbabwe) [2021] EWCA Civ 941 the Court of Appeal held that (para 28) *In paragraph 44, the UT accepted that Dr Cameron had expertise in 'Zimbabwean social and political matters*'. It gave 'due weight' to her opinions. The FTTJ did not provide any reasons or any cogent reasons for rejecting material evidence on a material matter.
9. Dr Cameron did not simply refer to the to the Criminal Law (Codification and Reform) Act 2022. Her conclusion is that the Appellant is at real risk of criminalization as a result of to the Criminal Law (Codification and Reform) Act 2022. The FTTJ has not engaged with this particular evidence. He reached a conclusion that is contrary to expert evidence. He failed to consider material evidence on a material matter. He also failed to give any reasons or adequate reasons for making finding that are contrary to the evidence.
10. Further, the FTTJ's assessment that Dr Cameron's report does not demonstrate a material change in the country situation since 2018 is absurd. Dr Cameron's last field trip to Zimbabwe was in 2021[RB/274]. She concluded that following the "soft coup" in 2017, Zimbabwe is now openly a military state [RB/269]. That was not the case before 2018. On any view, the description of Zimbabwe as "now" an openly military state is a material change in circumstances.
Ground four: the FTTJ made contradictory findings on a material matter.
11. At para 44, The FTTJ accepted that it *may be possible* that the Appellant was bluffed into revealing the details of his asylum application. At para 45, the FTTJ found that, in the absence of evidence, he *did not find it a realistic possibility* that the Appellant disclosed the information about his asylum claim. First, the decision contains a material error of law because the FTTJ made contradictory findings on a material matter. Second, the Appellant provided two witness statements and oral testimony and expert evidence about what happened at the re-documentation interview. It is unclear why the FTTJ found that there was an absence of evidence. It is not clear what evidence the FTTJ expected to see besides sworn statements, testimony and expert evidence.

Ground five: failure to give adequate weight to evidence on a material matter.
12. The FTTJ's assessment of Dr Cameron's report inadequate. He accepted at face value the Respondent's inaccurate assertion that Dr Cameron's report was generalized and generic as she did not meet the Appellant as correct (para 58 and [RB/19]). Dr Cameron interviewed the Appellant on 17 April 2022 [RB/277] and produced a bespoke report which addressed the risk to the Appellant.
13. The FTTJ criticized Dr Cameroon's report because she did not disclose the details of 14 other people who were subjected to the re-documentation interview that she interviewed. Experts are instructed by individuals and bound by confidentiality and privilege. It is unreasonable and unlawful to expect an expert witness to breach the confidentiality and privilege of those 14 persons she interviewed. The FTTJ has failed to attach sufficient weight to Dr Cameron's report."

Rule 24 response 5 April 2024

9. The Respondent submitted in relation to the grounds on which permission to appeal was granted that:

Ground 3

...5. The Judge has expressly engaged with Dr Cameron's conclusions on the interview issue at [53] of the decision" - see below at[18] where Judge Hamilton's findings are set out.

"6. ... these reasons are plainly adequate and disclose no legal error.

7. The guidance given in *JL (medical reports - credibility)* China [2013] UKUT 145 (IAC) should apply equally to the evidence of Dr Cameron, who is a non-medical expert, in the present context. In particular, at para (2) of the judicial headnote:

> *(2) They [experts] should also bear in mind that when an advocate wishes to rely on their medical report to support the credibility of an appellant's account, they will be expected to identify what about it affords support to what the appellant has said and which is not dependent on what the appellant has said to the doctor (HE (DRC, credibility and psychiatric reports) Democratic Republic of Congo [2004] UKAIT 000321). The more a diagnosis is dependent on assuming that the account given by the appellant was to be believed, the less likely it is that significant weight will be attached to it (HH (Ethiopia) [2007] EWCA Civ 306 [23]).*

8. The appellant's third ground does not identify what, in Dr Cameron's reports, provides any support to the appellant on the interview issue, that is not dependent on what the appellant had told Dr Cameron.
9. In fact, the only such passage appears to be para [27] of Dr Cameron's first report (dated 18th April 2022):

> *It is my opinion that the Claimant's account of his unexpected meeting with a Zimbabwe government official, and the sense of fear and powerless that he felt, is consistent with the experience of those who I have interviewed over the past 4 years.*

10. This has been properly dealt with by the Judge at [53].
11. The remainder of Dr Cameron's reports, insofar as they engage with the interview issue, are based on an uncritical acceptance that the appellant's account is true. Consistently with the above principles in *JL*, the Judge was entitled to, and did, give limited weight to those conclusions.
12. As can be seen from the relevant sections of Dr Cameron's reports, they are primarily concerned with establishing the likely effect (in the expert's view) if the account is telling the truth as to the interview issue; not with any detailed inquiry into whether A is in fact credible. This is perhaps unsurprising, as 'ultimately whether an appellant's account of the underlying events is or is not credible and plausible is a question of legal appraisal and a matter for the tribunal judge' (*JL* at headnote (3)).

13. The Judge has given clear and cogent reasons at [44]-[54] for finding against the appellant on the interview issue, that were not considered by Dr Cameron. These include that the appellant's account of what allegedly happened at the interview has developed over time. This forms an entirely legitimate basis for departing from the expert's conclusions.
14. Further, and as noted by the Judge, while Dr Cameron indicates that A's account is consistent with those of other Zimbabwean nationals she has interviewed, there was nothing before the Tribunal to indicate that any of them were ultimately found to be credible.
15. In these circumstances, the Judge was entitled to give limited weight to Dr Cameron's conclusions, for the reasons given. Once it is appreciated that the Judge did not err in finding against the appellant on the interview issue, the further points raised in Ground 3 fall away.

Ground 4

16. There is no contradiction between the findings at [44] and [45]. It was entirely appropriate for the Judge to accept that the alleged interview problems might in principle have occurred; but to find them not proven on the evidence.
17. The Judge was unarguably aware of the appellant's own evidence on the interview issue, having considered it in some detail within the decision.

Ground 5

18. The Tribunal was bound to assess the interview issue against the material before it. This included the fact that no details were provided for the other Zimbabwean nationals previously interviewed by Dr Cameron.
19. As noted above, there was nothing to suggest that any of them had been found to be credible in their claims by the UK immigration authorities. As the Judge rightly found at [53], 'I cannot speculate one way or the other'.
20. The suggestion at [13] of the grounds that it would be 'unreasonable and unlawful' for Dr Cameron to have disclosed further details of the individuals interviewed appears to be undermined by the fact that identifying details have in fact been given for at least one other specific case. At p.28 of Dr Cameron's initial report (p.261 of the respondent's FTT bundle), an unrelated asylum claimant appears to be identified by their full name."

Oral submissions

10. Mr Mupara repeated much of the grounds. He added in relation to ground 3 that the Judge erred in referring to CM (Zimbabwe) instead of looking at the current position. Dr Cameron was aware of the previous findings and that he was at real risk due to the new law. The Judge erred in not having a proper regard to the new legislation.

11. In relation to ground 4 and [58] of the decision, Dr Cameron's report is not generic. The second report focuses on the change in law. The first report was not generalised. It considered the documents, and the Appellant was interviewed. The interviewer at the Embassy referred to his and his siblings histories. There is surveillance and an interview. They have evidence he opposes the regime and claimed asylum and is to return. He told them where he grew up. They know where to find him. As explained in CM (Zimbabwe), the CIO have taken over immigration at the airport. They would know where he is going to live. He is at an enhanced risk. There has been an inadequate analysis. The findings in CM (Zimbabwe) were made in 2011 prior to the law change. Dr Cameron sets out her expertise. She interviewed other people. The Judge said he does not believe the Appellant. The Respondent accepts she is an expert.

There is no absence of evidence. The Judge could not make the findings he did. It was perverse as the expert has been found to be reliable.

12. In relation to ground 5, the Judge found it was credible that there was no one from the Home Office at the Embassy interview. It is therefore possible the interviewer blagged the Appellant into disclosing his asylum claim. The Judge was wrong to criticise the lack of detail of other people Dr Cameron had interviewed and erred in law in rejecting her account on that basis.

13. Mr Wain added orally regarding ground 3 that the claim has to be looked at in the round. The Judge assessed the Appellant's political profile at [55-58] of the decision. Questions of credibility are for the Judge and not the expert as explained in JL (China). The finding that he had a low political profile was not specifically challenged in the grounds. The findings from the 2018 appeal were the starting point for consideration of the evidence. The Judge considered the subsequent evidence. Criticism of Dr Cameron's methodology was open to the Judge. Dr Cameron did not have to name individuals to give some detail.

14. Regarding ground 4, the findings are not contradictory as [45] is a hypothetical position but the Judge then goes on at [45-46] to find the claim was not realistic based on the absence of evidence. The Judge weighs this in the balance. The Judge has summarised at [10] the Appellant's position as set out in the Solicitor's submission and then at [17-18] sets out the Respondent's submissions regarding the presence of the Respondent at the Embassy interview and did not accept the Respondent's assertion at [45]. The Judge directed himself at [34(2)] that "easily obtainable evidence could be used to draw an adverse inference about the claim (MAH (Egypt) [2023] EWCA Civ 216)." The Judge noted at [28 (7)] the lack of evidence from the previous solicitor. The Judge was entitled to note at [46] the absence of a complaint about the former Solicitor. The Judge considered the submissions about the interview at [49 and 50] and regarding the delay in raising concerns at [51]. The Judge was entitled to give reduced weight to the siblings statements as their evidence could have been easily verified. Dr Cameron did not carry out a full credibility assessment.

15. Regarding ground 5, there was no failure to give an adequate assessment for the reasons given in [58] of the decision. The concern expressed in [53] in relation to other cases was open to the Judge as Dr Camron did not have to identify them to give details. It is just a challenge to the weight to be attached to the evidence.

16. There is no material error of law just because a different Judge may have reached a different decision.

17. Mr Mupara replied (excluding repetition) that the sibling's passport and refugee document were before the Judge as p251 of the bundle. It is unclear how the Respondent could know what happened at an interview he was not at.

The First-tier Tribunal decision

18. Judge Hamilton made the following findings:

> "The re-documentation interview
> 45. In the absence of any evidence to support the suggestion that the respondent had disclosed__information regarding the appellant's asylum claim to be Zimbabwean Embassy, I do not find this to be a realistic possibility... I accept the interview took place at Home Office premises and Home Office officials would have been available if the appellant had wished to raise concerns about what happened at the interview ... I accept it may be possible that the official from the Zimbabwean Embassy could have bluffed the appellant into disclosing information about his asylum claim.
> 46. ... neither the appellant nor his representatives notified the respondent about any concerns regarding the re-documentation interview in February 2019, until his representations dated 4 September 2020 (RB/89)...
> 51. ... it was or should have been obvious to the appellant that the delay in raising any concerns about the re-documentation interview needed to be explained. However, the appellant did not address this issue in his statements and failed to provide any evidence or contemporaneous records (attendance notes or correspondence) from X or K&Co to show when he raised concerns about the re-documentation interview and what those concerns were. I remind myself that there is no legal obligation for an appellant to provide corroborative evidence. However, in this case, corroborative evidence from X and K&Co would appear to have been relatively easy to obtain and I find the appellant's failure to make any attempt to obtain such evidence and his the lack of any cogent explanation for why no steps were taken to obtain it, raises serious concerns about the credibility of this aspect of his evidence.
> 52. ...there was no independent documentary evidence produced to show that (siblings) had been granted refugee status...The appellant's failure to produce relevant documentation regarding the status of his siblings significantly reduces the weight I can give to the assertions made in their witness statements.
> 53. I also take into account Dr Cameron's reports and the fact that she is aware of 14 other people who have made similar claims about re-documentation interviews. However, she has provided no detail at all about these other cases and therefore it is difficult to assess the reliability of these claims. I cannot speculate one way or the other. Overall, I accept that this information is broadly speaking consistent with the appellant's evidence and adds some limited support to his account. I also take into account the unreported High Court decision...This case tells me nothing more than a '*foreign criminal*' awaiting deportation also claimed he could not be returned to Zimbabwe because he was asked about his asylum claim during a re-documentation interview...the High Court considered there was a serious issue to be tried. I can only give this very limited weight to this evidence...broadly speaking, it is consistent with the appellant's account.
> 54. Nevertheless, looking at the evidence as a whole, even applying the lower standard of proof, I do not find that the appellant has shown that he was asked about his asylum claim or that he disclosed any information about his asylum claim during the re-documentation interview.
> The appellant's political profile
> 55. My starting point are the findings made by Judge Dhanji in 2018 ... the evidence did not show the appellant had come to the attention of the authorities because of his MDC activities or that he had a problematic profile as far as the authorities were concerned...he had been able to live without problems in Zimbabwe during the months prior to his trip to the UK...there was a lack of any specific interest in him, his family or his MDC colleagues...
> 56. ... I ... do not find ... the appellant's activities are anything more than low level...
> 57. I accept it is likely there is some level of surveillance by the Zimbabwe government of opposition activity in the UK. However there was no evidence to show that such surveillance as there might be is sophisticated or pervasive. It is

reasonable to conclude that, as in Zimbabwe itself, the government would concentrate its attention on leaders and high-profile activists who are more likely to be perceived as a threat. … I do not find there is any adequate evidence that mere participation in anti-government demonstrations and other low-level activities such as posting views or being mentioned on social media, would in itself, bring an individual to the adverse attention of the government in Zimbabwe.

58. … in Dr Cameron's first report her views on this issue were generalised and is generic and … her second report focuses and relies heavily on the risks arising from the re-documentation interview…

59. Looking at the evidence overall, applying the lower standard of proof, I do not find the appellant has shown that since March 2018, he has engaged in any activities that would raise his profile or bring him to the adverse attention of the authorities.

Current situation in Zimbabwe for MDC supporters

60. I do not find the background evidence or Dr Cameron's report showed the situation as set out in the refusal decision has changed in any material respect since March 2018. This is reflected in the fact that the appellant's skeleton argument relies to a significant degree on information from the 2021 CPIN. Dr Cameron refers to the passing of the Criminal Law (Codification and Reform) Amendment (sic) Bill 2022. While this may make it easier for the government to persecute those who are identified as its enemies, it does not make it any more likely low-level activists like the appellant will be targeted. Having considered the factors set out in CM (above) I find the appellant would be able to continue his low-level MDC activities in Zimbabwe without a real likelihood of being targeted and persecuted. His situation would be the same as the many other low level MDC supporters living in Harare,

The appellant's home area

61. … I am satisfied he is likely to be Shona. Information in the September 2021 CPIN shows there are concerns that people of Shona ethnicity may experience discrimination in Bulawayo and Matabeleland. However the appellant and his family lived in Harare and his family continues to live there. I find that this is where he would return to. The background evidence shows that low-level MDC supporters do not face a real likelihood of persecution in Harare.

Conclusions in respect of the protection appeal

62. Looking, looking at the evidence as a whole, I find the inconsistent and unreliable aspects of the appellant's evidence set out above seriously damage his credibility. I have concluded that my findings about the reliability of the appellant's evidence go to the core of his account. Even applying the lower standard of proof applicable in these cases, I do not accept key aspects of his account. In particular, I do not accept he has shown:

(1) He was asked about his asylum application or that he disclosed any information regarding his asylum application at the re-documentation interview.

(2) While in Zimbabwe, he or any of his family members were high-level activists who came to the adverse attention of the authorities due to their political activities.

(3) He left Zimbabwe because he was in fear of his life.

(4) His activities in the UK are anything other than low-level or that they are sufficient for him to be identified as a dissident by the government in Zimbabwe.”

Discussion

19. Without repeating all the Respondent's written and oral submissions with which I agree, the grounds amount to nothing more than a disagreement with findings the Judge was entitled to make on the evidence and do not disclose a material error of law for the following reasons.

20. In relation to ground (3) and (4) which revolve around the weight to be placed on the report of Dr Cameron, the Judge has adequately

explained why he departed from her opinions. Questions of credibility are for the Judge and not the expert as explained in JL (China). Dr Cameron's opinion was based on what the Appellant had said being reasonably likely to be true. The Appellant's statements and oral testimony are not separate strands of evidence. They all emanate from the same source, namely the Appellant. It is what Dr Cameron relied on together with the interviews she conducted to form her opinion. The Judge was entitled to place little weight on the evidence of the 14 interviews she conducted for the reasons given namely a lack of detail which could have been given that did not compromise the individuals. The Judge noted Dr Cameron's opinion and explained why he did not accept it was reasonably likely the Appellant gave details of his asylum claim at the Embassy interview. Those reasons were open to him. The findings are evidence based and sustainable.

21. The Judge gave cogent reasons for finding that the Appellant has engaged in only "low level activity", and that whilst there is some level of surveillance by the Zimbabwean authorities, it was not "sophisticated or pervasive" and would not bring him to the adverse attention of the authorities. The Judge was entitled to find that his profile would not fall foul of the Criminal Law (Codification and Reform) Amendment Act 2022 given that low level activity. The Judge noted the reliance on the 2021 CPIN in the skeleton argument submitted by the Appellant's representative as showing that the situation has not changed greatly since 2018 and was entitled to place weight on that. The Judge considered the up to date evidence in the context of the framework identified in CM (Zimbabwe), as required. The fact that in MS (Zimbabwe), Dr Cameron's opinion was given "due weight" and that she had expertise in "Zimbabwean social and political matters" does not mean she is an expert in law or how legislation is implemented. Being found to have expertise in one decision does not mean that every report she has written has the same rigour or covers the same issues.

22. In relation to ground (5), all the Judge said on a fair reading of the decision is that whilst it is possible the Appellant was bluffed into disclosing details of his asylum claim, it was not reasonably likely that this happened for the reasons given, all those reasons why and findings being open to the Judge on the evidence. To put it simply, something being theoretically possible is not the same as something being reasonably likely.

Notice of Decision

23. The Judge did not make a material error of law.

Laurence Saffer

Deputy Judge of the Upper Tribunal
Immigration and Asylum Chamber
24 May 2024

NOTIFICATION OF APPEAL RIGHTS

1. A person seeking permission to appeal against this decision must make a written application to the Upper Tribunal. Any such application must be **received** by the Upper Tribunal within the **appropriate period** after this decision was **sent** to the person making the application. The appropriate period varies, as follows, according to the location of the individual and the way in which the Upper Tribunal's decision was sent:

2. Where the person who appealed to the First-tier Tribunal is **in the United Kingdom** at the time that the application for permission to appeal is made, and is not in detention under the Immigration Acts, the appropriate period is **12 working days (10 working days, if the notice of decision is sent electronically).**

3. Where the person making the application is in detention under the Immigration Acts**, the appropriate period is 7 working days (5 working days, if the notice of decision is sent electronically)**.

4. Where the person who appealed to the First-tier Tribunal is **outside the United Kingdom** at the time that the application for permission to appeal is made, the appropriate period is **38 days (10 working days, if the notice of decision is sent electronically).**

5. A "working day" means any day except a Saturday or a Sunday, Christmas Day, Good Friday or a bank holiday.

6. The date when the decision is "sent' is that appearing on the covering letter or covering email.