IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2024-002677

First-tier Tribunal No: PA/01022/2021

THE IMMIGRATION ACTS

Decision & Reasons Issued:

On 14th of January 2025

Before

UPPER TRIBUNAL JUDGE PINDER

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

R C
(ANONYMITY ORDER MADE)

Respondent

Representation:
For the Appellant: Dr S Chelvan, Counsel.
For the Respondent: Ms A Nolan, Senior Presenting Officer.

Heard at Field House on 12 December 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 Secretary of State for the Home Department appeals with the permission of the Upper Tribunal granted on 10th September 2024 against the First-tier Tribunal decision of 23rd May 2023 to allow the

Appellant's appeal against the Respondent decision dated 11th June 2021 refusing his protection and human rights claim, following the making of a Deportation Order.

2. For ease of reference, I refer to the Secretary of State as the Respondent and to R C as the Appellant, as they respectively appeared before the First-tier Tribunal ('FtT').

Background

3. The Appellant is a Zimbabwean citizen, who entered the United Kingdom on 18th October 2007 at the age of 16 with his mother, a British citizen, having been granted Indefinite Leave to Remain ('ILR'). He has been living in the UK ever since.

4. The Appellant faces deportation from the UK because he has been convicted in 2017 and 2018 of a number of criminal offences and sentenced to terms of imprisonment amounting to a total of five years and three months (including the activation of a suspended sentence). The offences involved sexual offences against children and the distribution/possession of indecent images of children.

5. As a result of the Appellant's convictions, the Respondent wrote to the Appellant on 25th March 2019 notifying him of his liability to deportation. Following an exchange and consideration of written representations lodged on the Appellant's behalf, the Respondent issued a Deportation Order against the Appellant on 11th June 2021 and on the same day, refused the Appellant's protection and human rights claim.

6. The Appellant appealed against the Respondent's decision of 11th June 2021 and the Appellant's appeal was heard by the First-tier Tribunal on 3rd May 2023. Before the Judge, the Appellant pursued his appeal on the grounds that his deportation would be in breach of the Refugee Convention with the presumption of risk pursuant to the s.72 certificate issued against the Appellant falling to be re-butted. This on the basis that he remains in custody and thus any risk that he may pose to the community is addressed by his current detention.

7. In the alterative, the Appellant argued that he was entitled to protection under Article 3 ECHR and failing that, under Article 8 ECHR. The risks that the Appellant argued arose under the Refugee Convention and/or Article 3 ECHR if he was to return to Zimbabwe reside in the claims that the Appellant is a gay white man, who would seek to live his sexual orientation openly, and who is also a convicted sex offender, and a person with the following health conditions: autism, attention deficit hyperactivity disorder (ADHD), attention deficit disorder (ADD), post-traumatic stress disorder (PTSD), depression and deafness.

8. The Appellant also requested the FtT to determine that the Deportation Order issued against him was unlawful on the basis that he did not fall to

be considered as a 'foreign criminal' under s.32 of the UK Borders Act 2007 on account of being stateless.

9. The Appellant was represented by Dr Chelvan, Counsel, as he was before me, and the Respondent by a Presenting Officer. The Appellant, who remained in custody at the time and who did not request to be produced, did not appear at his appeal hearing in the FtT. This was also the case at the hearing before me since the Appellant had been remanded back into custody in relation to other matters. The Judge heard oral evidence from one witness only, namely the Appellant's country expert witness, Dr Oliver Phillips. After hearing the parties' respective oral submissions, the Judge reserved their decision.

The Decision of the First-tier Tribunal Judge

10. At [17]-[22], the Judge set out their findings of fact on whether the Appellant had re-butted the s.72 presumption that he posed a danger to the community. The Judge concluded that there was no authority to support the Appellant's submission that he did not pose such a danger as he remained in custody. Parliament's intention was clear in setting an assessment as to whether a person posed a danger when in the community. Any other interpretation would frustrate the purpose of the legislation. The Judge also noted that the Appellant had been recalled to custody which supported the assessment that the Appellant remained a danger to the community.

11. The Judge then went on to consider at [23]-[35] the next issue of whether the Appellant was stateless or whether he remained a national of Zimbabwe. The Appellant had argued that he had lost his nationality on account of being absent from Zimbabwe for more than five years. Following consideration of the relevant Zimbabwean statutory provisions, to which the Judge was referred, as well as the relevant authorities that apply to this context, the Judge found that the Appellant had not lost his Zimbabwean citizenship. The statutory provision, relied upon by the Appellant, only applied to citizens who had acquired their citizenship by registration. The Appellant was a citizen by birth. I do not summarise these two aspects of the Appellant's appeal and the Judge's decision any further since these findings – summarised in this paragraph and above - are not the subject of the appeal before me.

12. The Judge's conclusion on the Appellant's nationality also disposed of the jurisdiction argument that the Appellant had taken in the FtT, which was that the Deportation Order issued against him by the Respondent was not lawful. As the Appellant was a Zimbabwean national, who held ILR, he fell to be considered as a 'foreign criminal' for s.32 purposes. The Judge did also consider that there were other reasons why, even if the Appellant had been stateless, the Appellant would still fall to be considered within the 'foreign criminal' definition. Those reasons are set out at [71]-[74].

13. With regards to the Appellant's appeal on Article 3 ECHR grounds, the Judge's findings are set out at [36]-[53] with relevant references to the guiding country guidance and other authorities. At [37], the Judge rejected with reasons the Respondent's case that the Appellant was not openly gay and found him to be so on the evidence before them. Applying the country guidance of *LZ (homosexuals) Zimbabwe CG* [2011] UKUT 487 (IAC), which the Judge cited extensively at [36], the Judge also reminded himself that being openly gay in Zimbabwe may increase risk when there was otherwise no general risk to gays or lesbians.

14. The Judge then considered the country expert evidence of Dr Phillips at [38]-[44], which included that the Appellant's white ethnicity and his convictions as a child sex offender would increase risk as well as his disabilities (autism and deafness) as a result of these reducing his social skills. The Judge also noted that Dr Phillips had given evidence before the Tribunal in *LZ* and had been accepted as having an expert knowledge and understanding of Zimbabwean society and culture in general, and of the historical situation of homosexuals in particular. At [41], the Judge recorded that this aspect of Dr Phillips' report was well supported by external evidence and the Judge accepted his opinion on this matter.

15. At [42], the Judge confirmed that they were unable however to place significant weight on Dr Phillips' report insofar as he discusses the process of immigration and deportation, including whether the Appellant would be interviewed and the processes more generally of obtaining travel documentation to enable his return to Zimbabwe. The Judge noted that Dr Phillips had accepted that he was not an expert on these matters and the parts of the report addressing these issues were not sourced with any objective information, unlike the other issues as summarised above. Similarly, from their own consideration of the Zimbabwean statutory materials before them, the Judge concluded at [43]-[44] that these would not exclude the Appellant from returning to Zimbabwe, or otherwise prohibit his entry into Zimbabwe, as those provisions expressly did not apply to citizens.

16. In the context of considering the procedures that are likely to arise to enable the Appellant to re-new his expired Zimbabwean passport, the Judge found at [45]-[47] that the Zimbabwean authorities are likely to be alerted to the Appellant's criminal convictions as a result of his passport renewal application but the Judge accepted the Presenting Officer's assurance that the Respondent herself would not inform those same authorities of the Appellant's offending nor that the Appellant was on this country's sex offenders' register. As a result of the authorities' likely knowledge of the Appellant's conviction (through the passport application as opposed to via the Respondent herself), the Judge also found at [48]-[49] that the Appellant would be likely interviewed on arrival in Zimbabwe in connection with his offending and that the Appellant would likely disclose his convictions. The latter was because, as per the Judge's findings, the Appellant did not appear to have any sense of the gravity of

his offending. At [50], the Judge additionally found that the Appellant was likely to be open about his sexuality, despite associated risks, due to his autism.

17. Drawing the above together, the Judge concluded at [51] that the Appellant's disability, being (perceived) gay, white and with a criminal record for child sex offences (once disclosed) will, viewed together, create substantial hostility towards him by the authorities. That this will be compounded by his disabilities limiting his capacity to interact in a way that would diffuse rather than exacerbate the hostility and that consequently, there was a real risk that the Appellant would be subject to treatment contrary to Article 3. At [52], the Judge considered that neither state protection nor internal relocation would assist him as the treatment would be at the point of entry by the authorities. At [53], the Judge emphasized that in reaching those findings, the Judge had placed particular weight on the fact that the Appellant would be applying for his passport from custody. The Judge then added that their conclusions might have been different if the Appellant was not in custody.

18. With regards to the Appellant's appeal on Article 8 ECHR grounds, the Judge considered this at [54]-[70] and concluded that he would not allow the appeal on such grounds. I need not summarise the Judge's findings and reasons any further since there was no cross-appeal before me from the Appellant concerning this aspect of his appeal.

19. Based on the above, the Judge allowed the Appellant's appeal on human rights grounds, namely Article 3 ECHR.

The Appeal to the Upper Tribunal

20. Permission to appeal was granted to the Respondent Secretary of State on the grounds pleaded, with the Upper Tribunal Judge granting permission noting in particular that it was clear from [48] that the Judge was concerned with the risks generated in Zimbabwe by reason of the Zimbabwean authorities in the UK discovering his convictions through his passport renewal application. It was further noted that it was arguable that the Judge's conclusion - that the Appellant would risk ill treatment because of his criminal convictions - was explained inadequately and/or not supported by the evidence.

21. In response to the Respondent's appeal and in preparation for the appeal hearing before me, the Appellant had filed and served, in compliance with the Tribunal's directions, a comprehensive response to the grounds of appeal under Rule 24 of the Tribunal Procedure (Upper Tribunal) Rules 2008 ('the Procedure Rules') as well as a skeleton argument. Both documents also appended annexes to aid their reading. It is also appropriate for me to record that the Appellant had filed and served an application to rely on further evidence under Rule 15(2A), should the Respondent's appeal succeed and should it be necessary for the decision in the Appellant's appeal to be re-made. However, it is not

necessary for me to summarise this further since the Respondent's appeal has not been successful for the reasons that I have set out in full further below.

22. Ms Nolan otherwise made oral submissions maintaining all grounds of appeal and Dr Chelvan made further oral submissions maintaining the position taken in the Rule 24 response. I have addressed those respective submissions, both written and oral, in the section immediately below where necessary and when setting out my analysis and conclusions.

23. At the end of both parties' respective submissions, I was able to inform both parties that I was satisfied that the Judge had not erred in law in reaching their decision on the Appellant's appeal on Article 3 ECHR grounds and that the Respondent Secretary of State's appeal would fall to be dismissed. I gave brief reasons to explain my conclusion and I now set these out in full below.

Analysis and Conclusions

24. Ms Nolan did not seek to submit that the Judge had made a material error of law by reaching findings on treatment that the Appellant would be subjected to whilst still in the UK. This was sensible since it is clear from the Judge's findings and reasons at [37]-[53], when read as a whole, that the Judge was concerned with the ill-treatment that the Appellant would be subjected to once arrived in Zimbabwe.

25. Ms Nolan maintained the written submission made at paragraph 4 of the Respondent's grounds, namely that the Judge had made contradictory findings, illustrated at [47] and [48], having accepted on the one hand that the Appellant's profile as a sex offender would not be disclosed to the Zimbabwean authorities by the Secretary of State, yet on the other hand, that the authorities would be aware of his profile at point of entry and through interviewing the Appellant, where the risk would then ensue. Ms Nolan submitted that the Judge did not have any objective information before them as to the travel documentation process, whether the Appellant would indeed be interviewed for such a process and thus there was inadequate reasoning from the Judge for their findings. Ms Nolan added that this was material since the Judge themselves noted that their findings may have differed had the Appellant not been in custody at [53]. At my request, Ms Nolan agreed that the findings of the Judge at [47] and [48] were not contradictory as such – she accepted that the Judge had reasoned their finding on the authorities discovering the Appellant's criminal convictions through his current imprisonment, as opposed to the Respondent informing them of this. Ms Nolan effectively re-cast the ground pursued as one which lacked reasoning and there being no background or other evidence to support the Judge's findings.

26. I can address this ground fairly swiftly. I am satisfied that the Judge's reasons at [46] were sufficient to support his finding that the Appellant's convictions would come to the attention of the Zimbabwean authorities here in the UK. The Judge was correct in setting out at [45] that they were required to determine the issues as at the time of the hearing and their subsequent findings are premised on the Appellant remaining in custody, which is also correct. The Appellant was still in custody at the time of the appeal hearing before me, as he was remanded to custody in relation to other matters.

27. Ms Nolan's submission that there was no background information concerning the travel documentation for those who are facing deportation before the Judge lies, if anything, at the feet of the Respondent, since it is her who disputed the Appellant's case on this issue. The reasons given by the Judge for concluding that the convictions are likely to come to the authorities' attention are very clearly set out at [46] and are adequate to support the Judge's findings, as per my summary at §16 above.

28. I also consider that the Judge's finding that the authorities are likely to discover the Appellant's criminal convictions as a result of their dealings with the Appellant in the event that he is forcibly removed from the UK was entirely reasonable. As Dr Chelvan correctly reiterated, it is a fact that the Appellant does not currently possess a valid travel document, his passport having already expired. It was therefore reasonably open to the Judge to conclude that the Appellant's address would likely be disclosed to the Zimbabwean Embassy authorities in the UK. As his address remains in prison, this would reveal that the Appellant has either been involved in criminal activities or is suspected of being so involved.

29. In any event, the Judge also considered for different reasons that the Appellant himself would be likely to disclose his criminal convictions at [49] and this is a finding that the Respondent has not sought to challenge or otherwise address in any way. I have addressed those reasons in more detail at §43 below. I do not find therefore that this ground of appeal has any merit.

30. On the Respondent's second ground of appeal, Ms Nolan emphasised the submission at paragraph 7of the grounds: the Judge's reasoning was insufficient to show that the Appellant would suffer treatment contrary to Article 3 at the point of entry to Zimbabwe. The written submissions also took issue with the Judge not following the country guidance of *CM (EM country guidance; disclosure) Zimbabwe CG* [2013] UKUT 00059 (IAC), and expressly referred to [202]-[209] of *CM* concerning *'Returnees to Zimbabwe'*. It was also submitted that the Appellant did not have a political profile and that *LZ (homosexuals) Zimbabwe CG* established that there was no breach of Article 3 on grounds of sexual orientation. Thus, it was submitted, there was no

other substantive evidence, objective or otherwise, to support the Judge's findings.

31. Whilst it is correct that the Judge did not refer to the country guidance decision of *CM*, I do not consider that this is an error since *CM* very much considered the position of those returned to Zimbabwe with or without political profile(s) and/or connection(s). The country guidance decision of *LZ* remains applicable country guidance on the issue of sexual orientation and this was plainly considered and correctly applied by the Judge, as I have summarised above.

32. Furthermore, the Upper Tribunal in *CM* expressly confirmed that the country guidance in *HS (returning asylum seekers) Zimbabwe CG* [2007] UKAIT 00094 remains the same. The following is stated at [202] (one of the paragraphs referred to by the Respondent in the grounds of appeal):

> As we have already made clear, we are not purporting in this determination to give any new Country Guidance regarding risk at the point of return in Zimbabwe; namely, Harare Airport. The Country Guidance on that topic remains HS. Nevertheless, like any other fact-finding Tribunal we have a duty under Practice Direction 12 to follow that Country Guidance only to the extent that (inter alia) the evidence before us is the same or similar to that which was before the Tribunal in HS.

33. At paragraph d) of the head-note in *CM*, the following is also stated (and repeated at [216]) – in a context where in the course of deciding CM's appeal, the Upper Tribunal made an assessment of certain general matters regarding Zimbabwe as at October 2012, which resulted in the following country *information* (as opposed to Country Guidance within the meaning of Practice Direction 12) and which was determined as possible assistance to decision-makers and judges (see also paragraph 4) of the head-note):

> (d) The fresh evidence regarding the position at the point of return does not indicate any increase in risk since the Country Guidance was given in HS (returning asylum seekers) Zimbabwe CG [2007] UKAIT 00094. On the contrary, the available evidence as to the treatment of those who have been returned to Harare Airport since 2007 and the absence of any reliable evidence of risk there means that there is no justification for extending the scope of who might be regarded by the CIO as an MDC activist.

34. The same endorsement was given in *EM and Others (Returnees) Zimbabwe CG* [2011] UKUT 98 (IAC) at [266]. This time purely as a result of the country guidance handed down by the Upper Tribunal in that appeal not concerning the position at the actual point of return to Zimbabwe of a failed asylum seeker from the United Kingdom. It was confirmed therefore that the country guidance regarding risk at the airport continued to be as set out in *HS (Returning asylum seekers) Zimbabwe*, read together with the relevant paragraphs of the preceding

country guidance cases of *SM and Others (MDC – internal flight – risk categories) Zimbabwe CG* [2005] UKIAT 00100 and *AA (Risk for involuntary returnees) Zimbabwe CG* [2006] UKAIT 00061.

35. I record the above since the country guidance case of *LZ* was promulgated after *EM and Others* but before *CM*. In *LZ*, the Upper Tribunal also confirmed that *EM and Others*, which formed the then-current starting point for Zimbabwean asylum cases, was not concerned with risk to homosexuals and that neither party in *LZ* had asked the Tribunal to make any finding which might be inconsistent with the findings in *EM*.

36. *HS* continues therefore to support the Judge's findings, stemming in the first instance from the discovery of the Appellant's criminal convictions. For instance, paragraph 3 of the head-note provides as follows:

> 3. The process of screening returning passengers is an intelligence led process and the CIO will generally have identified from the passenger manifest in advance, based upon such intelligence, those passengers in whom there is any possible interest. The fact of having made an asylum claim abroad is not something that in itself will give rise to adverse interest on return.

37. The updating country information given in *CM* on the position of returnees at the point of return confirmed that there was no basis to extend the scope of the country guidance given in *HS.* This does not however affect the Judge's findings in this appeal since the Judge did not seek to extend the scope of the country guidance but was merely applying the country guidance contained in *LZ* in relation to the return of those who are openly gay, together with the country guidance contained in *HS* on matters concerning return and the point of entry for returnees.

38. Whilst it is correct that the Judge did not expressly refer to the country guidance case of *HS* either, I am not satisfied that this indicates that the Judge erred in law. The Judge's references and summaries to the procedures on arrival at the airport in Zimbabwe are in line with the guidance handed down in *HS*, and as commented upon in *CM*.

39. It is also not correct to submit, as was done by the Respondent in the written grounds of appeal, that *LZ* has established that there is no breach of Article 3 based on sexual orientation. As was clear from the citation extracted by the Judge at [36], *LZ* established at [116] the following, much more, nuanced guidance:

> Applying HJ & HT, there is no general risk to gays or lesbians. Personal circumstances place some gays and lesbians at risk. Although not decisive on its own, being openly gay may increase risk. A positive HIV/AIDS diagnosis may be a risk factor. Connections with the elite do not increase risk. The police and other state agents do not provide protection. A homosexual at risk in his or her community can move elsewhere, either in

> the same city or to another part of the country. He or she might choose to relocate to where there is greater tolerance, such as Bulawayo, but the choice of a new area is not restricted. The option is excluded only if personal circumstances present risk throughout the country.

40. It is also not correct to submit, as was done both in writing and orally before me, that the Judge's reasoning was insufficient to show that the Appellant would suffer treatment contrary to Article 3 at the point of entry to Zimbabwe. The Judge's reasoning was first grounded in his finding that the Zimbabwean authorities would have become aware of the Appellant's criminal convictions. I have already set out above my reasons for why this finding stands in the context of my analysis of the Respondent's first ground.

41. Secondly, the Judge set out their reasons at [37] for finding in favour of the Appellant for being openly gay. As Dr Chelvan correctly emphasised, those findings have not been challenged by the Respondent and for the avoidance of doubt, these are sufficient and adequately explained. The guidance in *LZ* confirmed that being openly gay may increase risk but this factor alone was not decisive on the issue of risk. It is clear however, as I have addressed below, that the Judge did not limit themselves to an assessment of risk on the sole account of the Appellant being openly gay.

42. Thirdly, the Judge considered in detail at [38]-[41] the evidence of the Appellant's expert witness, who had also been called to give oral evidence at the hearing in the FtT and whose evidence had also been accepted in *LZ* – see [105] of *LZ*. The Judge accepted this evidence and set out their reasons for the same, which are again sufficient and adequately explained. That evidence included that the Appellant would face a significantly higher risk to his safety from being openly gay, White and a child sex offender. As I have summarised at §14 above, the Judge expressly noted that the passages of the expert's report addressing risk for the Appellant as a result of these three factors (openly gay, White, and a child sex offender) were well supported by external evidence. Some of those background materials were relied upon by the Appellant in his Rule 24 response at §9-12. Whilst the Judge did not expressly refer to these other materials, these had been placed before the Judge in evidence and, as I have already addressed, the Judge had clearly considered the external references included in the expert's report. Neither is it necessary for a judge to refer to each and every piece of evidence that they were referred to or that may ground a finding.

43. Fourthly, in addition to the above, the Judge also considered at [40] and [50] that the Appellant would also be at a greater risk on account of his disabilities, namely his deafness and autism, which would reduce his social skills and likely lead him to be open about his sexuality. At [49], the Judge had also considered that the Appellant would likely disclose his convictions with him not appearing to have any sense of the gravity attached to his offending.

44. There was thus a very clear number of individual-specific factors which the Judge considered against the applicable country guidance of *LZ* and the available expert evidence. Nothing that the Respondent has submitted in writing or orally demonstrates that the Judge has materially erred in law when considering those factors and reaching their conclusions on risk.

45. I also remind myself of the guidance from Green LJ in the Court of Appeal in *Ullah* at [26], which provided as follows and which has application to each of the grounds pursued by the Respondent:

> Sections 11 and 12 TCEA 2007 Act restricts the UT's jurisdiction to errors of law. It is settled that:
> (i) the FTT is a specialist fact-finding tribunal. The UT should not rush to find an error of law simply because it might have reached a different conclusion on the facts or expressed themselves differently: see *AH (Sudan) v Secretary of State for the Home Department* [2007] UKHL 49 [2008] 1 AC 678 at paragraph [30];
> (ii) where a relevant point was not expressly mentioned by the FTT, the UT should be slow to infer that it had not been taken into account: e.g. *MA (Somalia) v Secretary of State for the Home Department* [2010] UKSC 49 at paragraph [45];
> (iii) when it comes to the reasons given by the FTT, the UT should exercise judicial restraint and not assume that the FTT misdirected itself just because not every step in its reasoning was fully set out: see *R (Jones) v First Tier Tribunal and Criminal Injuries Compensation Authority* [2013] UKSC 19 at paragraph [25];
> (iv) the issues for decision and the basis upon which the FTT reaches its decision on those issues may be set out directly or by inference: see *UT (Sri Lanka) v The Secretary of State for the Home Department* [2019] EWCA Civ 1095 at paragraph [27];
> (v) judges sitting in the FTT are to be taken to be aware of the relevant authorities and to be seeking to apply them. There is no need for them to be referred to specifically, unless it was clear from their language that they had failed to do so: see *AA (Nigeria) v Secretary of State for the Home Department* [2020] EWCA Civ 1296 at paragraph [34];
> (vi) it is of the nature of assessment that different tribunals, without illegality or irrationality, may reach different conclusions on the same case. The mere fact that one tribunal has reached what might appear to be an unusually generous view of the facts does not mean that it has made an error of law: see *MM (Lebanon) v Secretary of State for the Home Department* [2017] UKSC 10 at paragraph [107].

46. In addition, I also remind myself that the Judge's decision should be respected unless it is quite clear that they have misdirected themselves in law. Appellate courts should not rush to find such misdirection simply because they might have reached a different conclusion on the facts or expressed themselves differently: *AH (Sudan) v Secretary of State for the Home Department* [2007] UKHL 49; [2008] 1 AC 678, at [30]. There is no suggestion from the decision and my analysis of the Judge's findings and reasoning that the Judge has misdirected themselves and the grounds of

appeal do not demonstrate the contrary. Quite the opposite, I consider that the Judge's decision is careful and focused and they have set out and applied the correct law and evidence. The Judge then carried out an assessment of the risks for this particular Appellant based on a holistic assessment of all the Appellant's personal characteristics and the expert evidence presented.

47. It follows therefore that I am satisfied that the Judge has set out sufficient reasons for finding that the Appellant would be at risk of treatment contrary to Article 3 ECHR when arriving in Zimbabwe on an enforced return. Those findings were grounded in and justified by the evidence before them concerning several individual-specific factors that would bring the Appellant to the adverse attention of the authorities. The Judge's decision does not disclose any errors of law.

48. In the circumstances, I dismiss the Respondent Secretary of State's appeal and order that the decision of the Judge shall stand.

Notice of Decision

49. The Respondent Secretary of State's appeal is dismissed. The Judge's decision to allow the Appellant's human rights appeal stands.

Sarah Pinder

Judge of the Upper Tribunal
Immigration and Asylum Chamber

06.01.2025