



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

Appeal Number: PA/03130/2017

THE IMMIGRATION ACTS

**Heard at Birmingham Civil Justice
Centre
On 15 November 2018**

**Decision and Reasons
Promulgated
On 23 November 2018**

Before

UPPER TRIBUNAL JUDGE HANSON

Between

**DLH
(anonymity direction made)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms B Asanovic, instructed by M & K Solicitors

For the Respondent: Mr D Mills, Senior Home Office Presenting Officer

DECISION AND REASONS

1. Following a hearing on 18 April 2018 at the Birmingham Employment Tribunal the Upper Tribunal found a judge of the First-Tier Tribunal has erred in law in relation to the first ground of the appellant's challenge, that relating to the appellant's protection appeal.
2. The appellant is a citizen of Zambia born on 21 April 1971.

3. The First-Tier Tribunal Judge dismissed the appellant's protection claim based upon a real risk on return to Zambia as a person opposed to the current Zambian regime. The challenge to that finding asserted the conclusions are irrational when considering the guidance provided by the Supreme Court in *HJ (Iran)*. The finding of the First-Tier Tribunal was that the appellant would not be at risk in Zambia if he blogged under a pseudonym and joined the opposition party which overlooked extensive evidence that ordinary UPND supporters are targeted by the Patriotic Front government and its supporters and that the situation is deteriorating. It was argued that in the circumstances it was irrational for the First-Tier Tribunal to conclude that the appellant would be able to voice his genuinely held political beliefs in Zambia without being exposed to a risk of ill-treatment.
4. A further bundle has been provided in accordance with directions that shows the appellant has continued to express views adverse to the government under a pseudonym and also country information relating to action taken by the ruling party against those perceived to be contrary to their interests.
5. I find that the adverse political views expressed by the appellant represent a genuinely held fundamental belief in which he clearly expresses opposition to the ruling Patriotic Front party in Zambia. I accept that the appellant has done so under a pseudonym and that there is no evidence, at this time, that anybody in Zambia has connected the appellant to the pseudonym.
6. I find that if the appellant returns to Zambia he will continue to express his opposition to the Patriotic Front as he has done from the United Kingdom and that the country information clearly indicates that doing so will give rise to a real risk of persecution to the appellant on the basis of his actual or imputed adverse political opinion.
7. I accept that the appellant could continue to use his pseudonym to avoid being identified as the person responsible for the blogs or other adverse material but also find on the evidence the only reason why the appellant would not use his real name or disclose his identity is to avoid the risk of persecution or ill-treatment that he is likely to face if he does.
8. In accordance with *HJ (Iran)* if a person is found to have a genuine fundamental belief such as that held by the appellant which could give rise to a real risk on return, but that person acts discreetly out of fear of persecution, then they are entitled to be recognised as a refugee.
9. I find the appellant has discharged the burden of proof upon him to the required standard to show this is the situation he faces and, accordingly, I allow the appeal under the Refugee Convention on the basis of the appellant's adverse political opinion.

Decision

10. I remake the decision as follows. This appeal is allowed.

Anonymity.

The anonymity order made on 1 June 2018, pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, shall continue until further order.

Signed.....

Upper Tribunal Judge Hanson
Dated the 15 November 2018