



**Upper Tribunal  
(Immigration and Asylum Chamber)  
PA/11760/2016**

**Appeal Number:**

**THE IMMIGRATION ACTS**

**Heard at Manchester  
On 14 December 2017**

**Decision & Reason  
Promulgated  
On 15 December 2017**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE PICKUP**

**Between**

**PIERRE MARCEL KAMAHA  
[NO ANONYMITY DIRECTION MADE]**

Appellant

**and**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the appellant: Mr C Timson, instructed by Maya Solicitors  
For the respondent: Mr G Harrison, Senior Home Office Presenting Officer

**DECISION AND REASONS**

1. This is the appellant's appeal against the decision of First-tier Tribunal Judge Tobin promulgated 13.3.17, dismissing his appeal against the decision of the Secretary of State, dated 14.9.17, to refuse his protection claim based on imputed political opinion.
2. The Judge heard the appeal on 24.2.17.
3. First-tier Tribunal Judge Shaerf granted permission to appeal on 26.7.17.
4. Thus the matter came before me on 14.12.17 as an appeal in the Upper Tribunal.

*Error of Law*

5. For the reasons summarised below, I found no material error of law in the making of the decision of the First-tier Tribunal such as to require it to be set aside.
6. In granting permission to appeal, Judge Shaerf granted permission on a single ground only. That was on the basis that the appellant's solicitors had submitted a supplementary bundle to the Tribunal by fax on 22.2.17, which had been stamped by the Tribunal as received on 24.2.17, but which was not passed to the judge. The bundle had been returned to the appellant's representatives with a covering letter stating that Judge Tobin had asked for it to be returned and was not being considered because it arrived after the hearing concluded. The judge stated, "I have not looked at the document, and cannot take it into consideration, because if I were to take it into account I would need to hear from the respondent's representative and that is not possible."
7. The response of the judge was unsatisfactory. Whilst it is clear the bundle had been received after the hearing, it was also clear that it had been sent before the hearing, albeit outside compliance with the Tribunal's standard directions that such evidence should have been submitted not later than 5 days before the hearing. The Tribunal must receive a great deal of correspondence, including by fax, and cannot be expected to receive, examine and process the extra material just as soon as it was sent.
8. However, there were other ways of dealing with the difficulty without simply ignoring what might have been important evidence. By the date of the Tribunal's letter returning the bundle, dated 28.2.17, the decision had not been promulgated. In fact, it had not been made at all, as the decision is dated 10.3.17 and was not promulgated until 13.3.17. The judge could have directed the parties to return to court for further submissions on the additional material. Alternatively, the judge could have had the documentation forwarded to the respondent allowing time for the Secretary of State to make any further representations in writing arising from this documentation, and then giving the appellant the opportunity to respond, again in writing.
9. Before doing either of the two suggestions above, the judge could also have examined the documentation and considered whether it would or could have made any difference to the outcome of the appeal.
10. In his submissions, Mr Timson was not able to explain why the appellant's representative, counsel, had not adduced the evidence himself at the hearing. It must surely have been part of the brief to counsel. Mr Timson sought an adjournment to obtain counsel's note. I refused that application as the point was obvious and Mr Timson could not explain why it had not been done before today.
11. Neither could Mr Timson explain in what way the documents not considered could have made any material difference to the outcome of the appeal.
12. In fact, a careful reading of the decision reveals that the documents in

question in the returned supplementary bundle were taken into account, so that no error of law arises.

13. It is clear from the returned bundle that it contained two documents with translations of each: a certificate of exemption of company tax, and an article on Cameroon Boko Haram Mayor Fotokol. The covering letter to the faxed bundle explains that these documents were already to be found in the appellant's main bundle, and the only difference was the inclusion of the translations from French to English.
14. On reading the decision of the First-tier Tribunal at [15] it is clear that these documents were produced. There, the judge refers to the appellant serving a supplementary bundle at the commencement of the hearing, which "contained the Cameroon certificate of exemption of company tax together with a certified translation and an article on Cameroon Boko Harman Mayor Fotokol, again with certified translation." It is obvious that these are the documents the appellant now complains were not taken into account. It is clear that they were before the Tribunal and the judge has clearly stated that they were read before the start of the hearing and that he re-read all the documentation before making his decision.
15. In the circumstances, there is absolutely no merit in this ground of appeal. Permission was not granted on any other ground. It is clear that had the decision been read carefully, permission should not have been granted to appeal to the First-tier Tribunal.
16. However, Mr Timson sought to advance further points of complaint against the decision, but had made no prior application to amend the grounds and, of course, had not sought permission from the First-tier Tribunal in respect of them. Neither had the Secretary of State been given notice. However, in my view even at their highest these points were no more than minor quibbles with the decision and in the light of the overall findings I was not satisfied that any material error of law was disclosed. In the circumstances I refused permission to advance any appeal on those further grounds.

*Conclusions:*

17. The making of the decision of the First-tier Tribunal did not involve the making of an error on a point of law such that the decision should be set aside.

I do not set aside the decision.

The decision of the First-tier Tribunal stands and the appeal remains dismissed on all grounds.

A handwritten signature in black ink, appearing to be 'James', written in a cursive style.

**Signed**

**Deputy Upper Tribunal Judge Pickup**

**Anonymity**

I have considered whether any parties require the protection of any anonymity direction. No submissions were made on the issue. The First-tier Tribunal did not make an order pursuant to rule 13(1) of the Tribunal Procedure Rules 2014.

Given the circumstances, I make no anonymity order.

**Fee Award**

**Note: this is not part of the determination.**

In the light of my decision, I have considered whether to make a fee award pursuant to section 12(4)(a) of the Tribunals, Courts and Enforcement Act 2007.

I have had regard to the Joint Presidential Guidance Note: Fee Awards in Immigration Appeals (December 2011).

I make no fee award.

Reasons: No fee is payable and thus no fee award can be made.



**Signed**

**Deputy Upper Tribunal Judge Pickup**