



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2022-006654

First-tier Tribunal No: PA/53111/2021

THE IMMIGRATION ACTS

Decision & Reasons Issued:

18th January 2024

Before

UPPER TRIBUNAL JUDGE PICKUP

Between

PS
(ANONYMITY ORDER MADE)

Appellant

and

Secretary of State for the Home Department

Respondent

Representation:

For the Appellant: Mr Mohzan of Counsel, instructed by CB Solicitors
For the Respondent: Mr P Deller, Senior Home Office Presenting Officer

Heard remotely at Field House on 15 January 2024

Order Regarding Anonymity

Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, [the appellant] (and/or any member of his family, expert, witness or other person the Tribunal considers should not be identified) 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 (and/or other person). Failure to comply with this order could amount to a contempt of court.

DECISION AND REASONS

1. By the decision of the First-tier Tribunal (Judge Haria) the appellant, a national of Zimbabwe, has been granted permission to appeal to the Upper Tribunal against the decision of the First-tier Tribunal (Judge Alis) dismissing his appeal against the

respondent's decision of 11.6.21 refusing his claim for international protection made on 14.8.19.

2. There was some confusion at the outset of this hearing as Mr Deller mistakenly understood it to be a Case Management Hearing. However, he agreed with my suggestion that the issue in the appeal to the Upper Tribunal was rather narrow and he should listen to Mr Mohzan's submissions before deciding whether he was professionally embarrassed. In the event, Mr Deller was content to proceed and made his submissions on the error of law issue.
3. Following the submissions of both representatives, I reserved my decision to be given in writing, which I now do.
4. In summary, the grounds argue that the judge erred in failing to give reasons or any adequate reasons for findings on material matters, including (i) that in finding that the authorities had no interest in him, the judge failed to take into account that according to his wife, men came looking for him, and his brother was arrested, after he left Zimbabwe; (ii) in finding that the appellant had no significant MDC role so would not fall within the risk category identified in the latest CPIN, the judge did not consider whether the appellant could be considered an activist; and (iii) in finding that the appellant could reasonably relocate the judge failed to consider the socio-economic conditions he would face on return.
5. In granting permission on all grounds, Judge Haria stated, "it is arguable that the Judge failed to give reasons or make findings on the appellant's claim as set out at paragraph 30 and 33 when finding at paras 73 and 79 that the appellant's claim to have been of real interest to the authorities was undermined by his ability to leave Zimbabwe on two occasions without any issues."
6. The appeal was heard by the First-tier Tribunal without the respondent being represented but there was no application for an adjournment.
7. The appellant's case and evidence was summarised between [16] and [36] of the decision, with Mr Mohzan's submissions recorded at [50] to [51]. The judge accurately set out the issues at [14] of the decision. There can be no doubt that the judge was fully aware of the elements of the appellant's case that it is now suggested were not taken into consideration.
8. In essence, the primary reason that the grounds and Mr Mohzan's submissions to me assert that the judge failed to take evidence into account when reasoning his findings is that the evidence in question was not specifically referred to when the conclusions are set out later in the decision. Put another way, the grounds are predicated on the absence of a second reference to the evidence already noted earlier in the decision when reaching conclusions.
9. For example, in relation to the first ground, Mr Mohzan pointed to elements of the appellant's case which the judge had set out at [30] and [33] as to people looking for him after he had left Zimbabwe. At [64 (xii) & (xiii)] the judge for a second time noted the claim that men had been looking for him. At [73] to [80] the judge accepted that he had joined the MDC in the UK but found that he did not have any significant role and rejected the claim that men were looking for him in Zimbabwe. As part of that reasoning, at [79] the judge pointed out that the appellant was able to travel "in and out" of Zimbabwe without difficulty. It was submitted to me that as an MDC supporter, the authorities would be content to see him leave the country. However, it wasn't just the leaving of Zimbabwe but also the return that the judge relied on.
10. At [27] the judge had recorded the appellant's explanation for being able to leave Zimbabwe for South Africa. At [64] the judge set out the appellant's case in

bullet-point style, including that despite alleged involvement with the Police because of his MDC activities, he was not only able to visit South Africa but return to Zimbabwe in March 2019, before leaving for the UK in July 2019. At [79] and [80] the judge noted but effectively rejected this explanation. I am satisfied that it was not necessary for the judge to repeat for a third time the claim that men were looking for him when rejecting that claim at [79] of the decision. The judge can be assumed to have considered the evidence in the round, in the context of the whole and of other adverse credibility findings without having to specifically reference to every single piece of evidence. In R (Iran) and others v SSHD [2005] EWCA Civ 982, Lord Justice Brook held that there was no duty on a judge in giving reasons to deal with every argument and that it was sufficient if what was said demonstrated to the parties the basis on which the judge had acted. This approach was adopted and applied by the Upper Tribunal in Budhathoki (Reasons for decision) [2014] UKUT 00341, where the Upper Tribunal held that “it is generally unnecessary and unhelpful for First-tier Tribunal judgements to rehearse every detail or issue raised in a case. This leads to judgements becoming overly long and confused and is not a proportionate approach to deciding cases. It is, however, necessary for judges to identify and resolve key conflicts in the evidence and explain in clear and brief terms their reasons, so that the parties can understand why they have won or lost.” I am satisfied that the judge did take into account the matters said to have been ignored when reaching his findings and conclusions.

11. Similarly, in relation to the other two grounds, it is clear and beyond argument that the judge made findings on all the key issues, supported by cogent reasoning open on the evidence. The judge made clear why the appellant did not have any significant role either in Zimbabwe or the UK and for that reason would not be at risk on return. It follows that the findings as to relocation were in the alternative and any error in that regard cannot be material to the outcome of the appeal. However, I am satisfied that adequate reasoning was provided for the relocation findings, noting that he would have family support on return.
12. In all the circumstances and for the reasons explained above, I am satisfied that the impugned decision met all necessary requirements and that the findings made were open to the judge on the evidence supported by cogent reasoning.
13. It follows that there is no error of law in the decision of the First-tier Tribunal.

Notice of Decision

The appellant’s appeal to the Upper Tribunal is dismissed.

The decision of the First-tier Tribunal stands as made.

I make no order as to costs.

DMW Pickup

DMW Pickup

Judge of the Upper Tribunal
Immigration and Asylum Chamber

15 January 2024