



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2024-001908

First-tier Tribunal No: PA/52832/2022
IA/07263/2022

THE IMMIGRATION ACTS

**Decision & Reasons Issued:
On 15 August 2024**

Before

UPPER TRIBUNAL JUDGE KAMARA

Between

**DC
(ANONYMITY ORDER MADE)**

Appellant

and

Secretary of State for the Home Department

Respondent

Representation:

For the Appellant: Miss K Reid, counsel instructed by KBP Law LLP
For the Respondent: Ms S McKenzie, Senior Home Office Presenting Officer

Heard at Field House on 31 July 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 or any member of her family, likely to lead members of the public to identify the appellant or any family members. Failure to comply with this order could amount to a contempt of court.

DECISION AND REASONS

Introduction

1. The Secretary of State has been granted permission to appeal the decision of First-tier Tribunal Judge Veloso dated 27 February 2024.
2. However, for ease of reference hereafter the parties will be referred to as they were before the First-tier Tribunal.

3. Permission to appeal was granted by Upper Tribunal Judge Jackson on 1 June 2024.

Anonymity

4. An anonymity direction was made previously and is maintained because this appeal concerns a protection claim.

Factual Background

5. The appellant is a national of Zimbabwe now aged forty-seven. She entered the United Kingdom during 2003 with indefinite leave to enter as the spouse of a recognised refugee.
6. On 18 December 2017, the appellant was convicted of offences of facilitating the travel of a person for sexual exploitation and was sentenced to 6 years' imprisonment, made the subject of a Sexual Harm Prevention Order for 10 years and placed on the Sex Offenders Register indefinitely.
7. In response to correspondence from the Home Office dated 16 November 2018, the appellant set out the reasons why she should not be deported. She raised a fear of persecution in Zimbabwe based on her ethnicity as well as a fear of the family of her former husband would kill her for taking the children to the United Kingdom. Claims under Articles 3 and 8 were also made. The appellant was interviewed on 18 June 2019 with respect to her protection claim while serving her sentence.
8. On 17 May 2022, the Secretary of State decided to revoke the appellant's refugee status. A deportation order was signed on 27 June 2022. On 7 July 2022, the respondent made a decision to refuse the appellant's protection and human rights claims. In that decision, reliance was placed on section 72 of the Nationality, Immigration and Asylum Act 2002. This is the decision which is the subject of the instant appeal.

The decision of the First-tier Tribunal

9. At the hearing before the First-tier Tribunal, the revocation of refugee status point was not pursued as the appellant was not relying on the basis of her former husband's case. The appellant and her children were treated as vulnerable witnesses. The judge concluded that the appellant did not constitute a danger to the community and the appeal was allowed under the Refugee Convention as well as Articles 3 (destitution) and 8 ECHR.

The appeal to the Upper Tribunal

10. There are two grounds of appeal.
11. Firstly, it is argued that there was inadequate reasoning as to the support the appellant could obtain in Zimbabwe.
12. Secondly, it was said that the judge's reasoning in relation to the issue of internal relocation are similarly inadequate.
13. Paragraph 11 of the grounds set out the Secretary of State's overall position in relation to ground 2.

Should this ground succeed, but Ground 1 fail, it is accepted that the appeal should be allowed on Article 3 (destitution) and Article 8 grounds. However, the appeal should be refused on Refugee Convention and Article 3 (ill-treatment) grounds.

14. An unrestricted grant of permission was made with, Upper Tribunal Judge Jackson making the following comments.

The grounds are both arguable on the basis that it is arguable the First-tier Tribunal failed to consider whether the Appellant would receive support from her siblings as at the date of hearing, as opposed to the position some years ago (although it could rationally be found that the previous circumstances indicated that re-establishing contact was unlikely or unlikely to assist, that was not expressly reasoned) and arguable that there was a conflation of the assessment of internal relocation and whether the Appellant would be destitute on return. As accepted by the Respondent, even if successful, the impact of the error of law would only be on whether the appeal should be allowed on Refugee Convention and/or Article 3 (destitution) grounds and accepted that there is no challenge to the Article 8 findings which would stand.

15. The respondent filed no Rule 24 response.

The error of law hearing

16. The matter comes before the Upper Tribunal to determine whether the decision contains an error of law and, if it is so concluded, to either re-make the decision or remit the appeal to the First-tier Tribunal to do so. The hearing was attended by representatives for both parties as above. Both representatives made succinct submissions and the conclusions below reflect those arguments and submissions where necessary. A bundle was submitted by the Secretary of State containing, inter alia, the core documents in the appeal, including the appellant's and respondent's bundles before the First-tier Tribunal.

Discussion

17. The Secretary of State's grounds amount to little more than disagreement with the careful and detailed decision of the First-tier Tribunal. Over the course of that 24-page decision, the judge addresses all the issues in contention and provides secure reasons for her findings, based on the evidence before her.
18. Firstly, it is argued that there was inadequate reasoning as to the support the appellant could obtain in Zimbabwe. Ms McKenzie argued that the judge failed to analyse whether the appellant's relatives in Zimbabwe would be willing or able to assist her and that there was no factual basis for the judge's finding that they would not as at the date of the hearing. Firstly, it is not in dispute that the appellant is in need of emotional and financial support owing to her mental health diagnoses as well as the absence of state support in Zimbabwe.
19. At [48], the judge engaged with the concerns of the Secretary of State and made the following findings.

I do not accept Mrs Sandals' submission in closing that the appellant can turn to her siblings on her return to Zimbabwe. On her own evidence, the appellant is not in contact with them. She last spoke with her sister around 11 years earlier because she would give information about her to her ex-husband, and last spoke with her brother around 6 years ago, who used to rely on her financially. He would not help anybody because he has his own difficulties; nor would her sister, who is supported by her own children because she is not working. The mere fact that she has relatives in Zimbabwe does not automatically

mean that they are able and willing to assist her, which for the reasons set out above I find they are not.

20. Contrary to what has been argued on behalf of the Secretary of State, the judge's findings are more than adequately reasoned. The respondent does not seek to challenge the judge's positive credibility assessment at [39] of the decision nor that the facts referred to by the judge both at [38] at [48] took place. Further detail regarding the fracture of the relationships the appellant had with her relatives is set out in detail in her witness statement.
21. There was no requirement for the judge to repeat all that information in the decision. It was enough for it to have been taken into account.
22. Secondly, it was said that the judge's reasons in relation to the issue of internal relocation are similarly inadequate. Ms McKenzie argued that this issue was conflated with that of destitution, with reference to [62] of the decision, where the judge says the following.

Her difficulties finding employment due to her limited education and work experience and mental health symptoms, which include struggling with loads of people and in shops, will impact on her ability to obtain accommodation and treatment, which will in turn impact on her mental health and her ability to self-care and seek necessary help and support; with social support limited in any event.

23. While the above passage might raise issues which are relevant to destitution, these factors are also relevant to an assessment of the reasonableness of internal relocation for the appellant, applying *AS (Afghanistan)* 2019 EWCA civ 873 at [61]. The reasons the judge cites for finding that it would be unduly harsh for the appellant to relocate are not improper in light of the appellant's mental health symptoms, the poor availability of mental health treatment as well as the absence of support from her own family.
24. In addition to the foregoing, even had the judge erred in relation to internal flight it would have not have been a material error. It is the appellant's case, which was accepted by the judge, that the appellant was subjected to domestic abuse by her former husband and that she fears that she will be killed by her former husband's family who are located in various parts of Zimbabwe. This was expressed at [38] of the decision and reasons.

The appellant claims a fear of returning to Zimbabwe because of her ex-husband and his family, who will kill her because they believe they own her 2 eldest daughters, whom she took away from them. She suffered domestic abuse at the hands of her ex-husband, from whom she eventually escaped with the children. He tried to contact her and her children but she blocked him. His family is scattered throughout Zimbabwe and will find her wherever she goes.

25. It follows that the First-tier Tribunal judge made no errors of law and her decision is upheld.

Notice of Decision

The making of the decision of the First-tier Tribunal did not involve the making of an error on a point of law.

The decision of the First-tier Tribunal shall stand.

T Kamara

Judge of the Upper Tribunal
Immigration and Asylum Chamber

5 August 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**