Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: DA/01349/2012

THE IMMIGRATION ACTS

Heard at North Shields	**Determination Promulgated**
on 12th August 2013	**On 16th August 2013**

Before

UPPER TRIBUNAL JUDGE HANSON

Between

SHUPIKAI MBIZVO

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:
For the Appellant: Mrs Harrison of Halliday Reeves Law Firm
For the Respondent: Mr Mangion - Home Office Presenting Officer.

DETERMINATION AND REASONS

1. This is an appeal against a determination of a panel of the First-tier Tribunal composed of First-tier Tribunal Judge Fisher and Dr J O de Barros (hereinafter referred to as 'the Panel'), promulgated on 28th February 2013, in which they dismissed the appellant's appeal on all grounds against the order for her deportation from the United Kingdom made pursuant to section 32 (5) of the UK Borders Act 2007.

2. Permission to appeal was granted by a Designated Judge of the First-tier Tribunal on 18th March 2013 on the basis of an arguable error of law relating to paragraph 18 of the determination. The appeal is opposed by the Secretary of State.

3. The Panel set out their findings from paragraph 12 of the determination with two key findings relating to political activities being made in paragraphs 14 and 18. In paragraph 14 the Panel did not accept that the appellant has any significant commitment to the MDC, had not attend any demonstrations since 2008, and had failed to adduce satisfactory evidence that she had drawn herself to the attention of the authorities at either of the two vigils she said she attended outside the Zimbabwe Embassy. The Panel further found in paragraph 14 that the appellant's claim to have fled from Zimbabwe in fear of her life was completely contradicted by her conduct in failing to claim asylum until over a year after her arrival in the United Kingdom and then only following the refusal of her application for leave to remain as a student.

4. In paragraph 16 the Panel found that as the appellant worked as a bus conductor owned by an MDC supporter and that if the vehicle on which she was working was attacked it was because of the livery and her boss's opposition rather than as a result of any interest in the appellant. She was found to be a local and low-level supporter of the MDC in Zimbabwe whose UK activities did little if anything to change her profile.

5. In paragraph 18 the Panel find:

> 18. Even if we accept that the appellant's home area is Silobela, in the Midlands Province of Zimbabwe, the tribunal held in CM that internal relocation from a rural area of Harare or Bulawayo is realistic, although the socio-economics circumstances in which a person would find him or herself would need to be considered. In his unsuccessful asylum appeal, her partner's home area was said to be Chiweshe, which was about one hour's drive from Harare. The appellant's account was that she had spent some time working in Harare. If the appellant could not relocate to Bulawayo, due to her Shona ethnicity, we found that it would not be unreasonable for the appellant and her partner, who has no leave to remain in the UK, to return to the Harare area. Both of them claimed to have worked in the past, and there was no reason to doubt that they would be able to find work on return, so their socio-economics circumstances would not be unreasonable. Given that the appellant has not engaged in any political activities in the UK for something in the region of five years, we could not accept that she would seek to participate in political activities on return on a scale which was likely to attract the adverse attention of Zanu PF, particularly if she has not, according to previous findings, done so. There was no medical evidence to confirm the appellants account about her health, or her prognosis. Mr Boyle accepted that she was unable to meet the threshold in N v UK. However, the lack of evidence of health prevented us from making any positive findings in that regard on the issue of internal relocation.

Discussion

6. It is alleged the Panel made an error in finding that the appellant's MDC activity ceased approximately five years ago for at pages 14 and 15 of her bundle were e-mails from activists dated November 2012 regarding a hope of establishing a local MDC group in Middlesbrough. It was argued on the appellant's behalf that whist it was not necessarily unreasonable for a non-active claimant in the UK to return and not be active in Zimbabwe, although this was not the appellants evidence, she stated that she continued to be active and wished to remain active until very recently, even though there was no official local group and even though she lived in a small town over ten miles from Middlesbrough.

7. There is no challenge to the factual findings that the appellant is a low-level member of the MDC or that she had produced photographs of herself at demonstrations from the time she lived in London. I accept evidence was available showing that she has been unable to attend demonstrations since being relocated to Hartlepool, although she claimed she remained active within the MDC. I also find the Panel's finding that the appellant was a local and low-level supporter of the MDC in Zimbabwe and that her profile has not changed as a result of the UK-based activities to be in accordance with the evidence.

8. In relation to any risk at the point of return, the relevant country guidance is still that of HS (returning asylum seekers) Zimbabwe CG [2007] UKAIT 00094. I find that even taken at its highest the appellant's profile is not such as to place her at risk on return to the airport in Zimbabwe as the finding that her activities are not sufficient to attract the adverse attention of Zanu PF is sustainable in relation to the point of return. In CM (EM country guidance; disclosure) Zimbabwe CG [2013] UKUT 00059(IAC) the Tribunal held that 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.

9. In relation to the position within Zimbabwe, the Panel make a clear finding that the appellant could reasonably relocate with her partner on the basis of their potential socio-economics circumstances. The categories of those at risk on return are set out in CM in which it was found, inter alia, that a returnee to Harare will in general face no significant difficulties, if going to a low-density or medium-density area. Whilst the socio-economic situation in high-density areas is more challenging, in general a person without ZANU-PF connections will not face significant problems there (including a "loyalty test"), unless he or she has a significant MDC profile, which might cause him or her to feature on a list of those targeted for harassment, or would otherwise engage in political activities likely to attract the adverse attention of ZANU-PF, or would be reasonably likely to engage in such activities, but for a fear of thereby coming to the adverse attention of ZANU-PF. There was no evidence the appellant and her partner

will find it necessary to settle in a high density area or that she has a significant MDC profile.

10. The Panel took into account the appellant's past political activities, which it is reasonable to find, are illustrative of her future activities, and noted that she was a low-level local supporter of the MDC. Her activities in the United Kingdom have been similar and therefore the finding that she has not proved she would participate in any political activities on return which are likely to attract the adverse attention of Zanu PF, is a finding in accordance with the evidence.

11. Although the grounds refer to HJ (Iran) this is not a case where the evidence supports a claim that but for the fear of persecution the appellant would do more, as even when there has been no fear of persecution in the UK her activities have been extremely limited. The Panel also made sustainable findings about the appellant's lack of credibility and motives. In paragraph 15 they find that she was prepared to resort to dishonesty to achieve her aims.

12. I find that even if the Panel erred in claiming that the appellant had not engaged in political activities for approximately five years, as there was evidence of e-mails dated November 2012, such error is not material. The key question is has the appellant an actual or imputed adverse political profile such as to place her at risk on return to Zimbabwe at the date of the hearing. On the evidence the Panel found the appellant had not discharged the burden of proof upon her to the required standard to prove this was so and, accordingly, I find no material error proved. The findings are in the range of permissible findings the Panel were entitled to make on the evidence in light of the country material and the current country guidance cases.

Decision

13. **There is no material error of law in the First-tier Tribunal Judge's decision. The determination shall stand.**

Anonymity.

14. The First-tier Tribunal did not make an order pursuant to rule 45(4)(i) of the Asylum and Immigration Tribunal (Procedure) Rules 2005.

I make no such order as no application was made for the same and no grounds established for the making of such an order.

Signed…….
Upper Tribunal Judge Hanson

Dated the 12th August 2013.