Upper Tribunal
(Immigration and Asylum Chamber) **Appeal Number: PA/11086/2016**

THE IMMIGRATION ACTS

Heard at Columbus House, Newport	**Decision & Reasons Promulgated**
On 26 February 2018	**On 20 March 2018**

Before

DEPUTY UPPER TRIBUNAL JUDGE MCGEACHY

Between

LST
(ANONYMITY DIRECTION MADE)

Appellant

And

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr O James, of Counsel instructed by Asylum Justice
For the Respondent: Mr I Richards, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant appeals with permission against a decision of Judge of the First-tier Tribunal Walker who, in a determination promulgated on 1 June 2017, dismissed the appellant's appeal against a decision of the Secretary of State to refuse his claim for asylum.

2. The judge noted the appellant's evidence in paragraphs 16 onwards of the determination. The appellant had said that he was a Roman Catholic and a member of the Chagga tribe – one of the most trusted tribes in Tanzania. He said that his parents had spread rumours about him in Tanzania that they believed him to be gay but he was not. The judge noted that the appellant had been diagnosed with moderate depressive disorder and his

fear of returning home “empty handed”. He noted the appellant claimed to have followed CUF, and that the appellant had had a relationship here and that he had a daughter, born on 11 November 2011, but that his relationship had broken down and he had not seen his child since 2013. The judge placed weight on a determination of Immigration Judge Rowlands who had dismissed a previous appeal made by the appellant in 2014.

3. The judge noted that at the hearing the appellant claimed to be bisexual.

4. In paragraphs 58 onwards the judge set out his findings and his conclusions. He considered the evidence of the appellant but did not find his claim to be bisexual credible nor did the judge find that the appellant would face persecution on return to Tanzania.

5. When considering the rights of the appellant under Article 8 of the ECHR, the judge noted that his relationship with his daughter’s mother had broken down and that the appellant was, he considered, unlikely to be able to re-establish contact with his former partner and daughter. He noted that the appellant has relatives here including his father but said that those relationships were highly problematic as the appellant’s father had evicted him from his house. In paragraph 71 the judge said that the appellant did not meet the requirements of the Rules under paragraph 276ADE because he did not meet the long residence Rules and he had failed to establish that he had family life in the United Kingdom.

6. Permission to appeal was granted solely on the issue of whether or not the judge had erred in his consideration of the rights of the appellant under Article 8, and in particular the requirements of paragraph 276ADE. It was stated that the judge might have erred by having failed to give consideration as to whether there were very significant obstacles to the appellant's integration into Tanzania.

7. That issue was the sole issue on which permission was granted and that was accepted by Mr James. He stated that there was evidence of the appellant's depression and that there was a letter from Primary Care indicating that he might need support and argued that the appellant's physical symptoms might affect his ability to reintegrate into society in Tanzania. Mr James submitted that it was a material error of law for the judge not to have considered the issue of reintegration. He added that the judge had found that the appellant was not exercising family life here whereas Judge Rowlands, in 2014, had found that he was.

8. Mr Richards stated that there was no evidence that the issue of significant obstacles had been pleaded in the grounds of appeal, nor argued before the judge and therefore the judge should not be criticised for not dealing with that point. In paragraphs 68 onwards the judge had properly considered the appellant's family life in Britain and considered all relevant factors. In paragraph 67 he had properly considered the issue of the appellant’s health. The appellant had stated that he could receive

counselling in Tanzania. Mr Richards asked me to find there was no material error in the determination.

Discussion

9. The judge properly set out all the relevant factors in this case. He had before him evidence of the length of time the appellant had lived in Britain – he had come to Britain in 2006, he had formed a relationship here but that relationship had broken up. The judge found, and indeed it was not challenged, that he would not face persecution on return to Tanzania and indeed, the judge had not accepted that the appellant was bisexual.

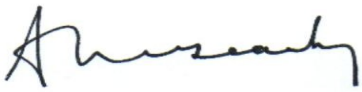
10. While it is the case that the judge had not considered the issue of insurmountable obstacles in the appellant's reintegration into Tanzania under paragraph 276ADE(vi) I do not consider that that is a material error as the judge was faced with a man whose depression could be treated in Tanzania, who was aged 27 when he came to Britain, and had some history of working in Tanzania and had tribal links there. There was simply nothing before the judge to indicate that there would be any obstacles to the appellant reintegrating into life in Tanzania on return. While I note Mr James' point that Judge Rowlands had found that the appellant was exercising family life here, the reality is of course that that was not argued before Judge Walker. Judge Walker had clearly taken into account the fact that the appellant's relationship with his former partner here had broken up some years ago. The appellant had not had contact with his daughter since 2013 and his relationship with his father here had fractured.

11. I therefore find that there is no material error of law in the determination of the judge in the First-tier. I would add that even if I had set aside his decision and considered the issue afresh, in addition to the reasons set out above, I would have placed weight on the fact that the appellant has lived in Britain without authority and therefore the provisions of Section 117(B) of the 2002 Act would come into play as little weight should have been placed on private life built up at a time when the appellant's stay here was precarious and therefore have dismissed the appeal.

12. As I have found no material error of law in the determination I find that the determination of the First-tier Judge shall stand.

Direction Regarding Anonymity – Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008

Unless and until a Tribunal or court directs otherwise, the appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify him or any member of his family. This direction applies both to the appellant and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.

Signed:  Date: 17 March 2018

Deputy Upper Tribunal Judge McGeachy