



**Upper Tribunal
(Immigration and Asylum Chamber)**

Appeal Number: PA/05369/2018

THE IMMIGRATION ACTS

**Heard at Field House
On 7 March 2019**

**Decision & Reasons Promulgated
On 21st March 2019**

Before

DEPUTY UPPER TRIBUNAL JUDGE HUTCHINSON

Between

**M J M
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr J Rylatt Counsel instructed by Duncan Lewis & Co Solicitors

For the Respondent: Mr S Walker Senior Home Office Presenting Officer

DECISION AND REASONS

Background

1. The appellant, a citizen of Zimbabwe, appealed to the First-tier Tribunal against the decision of the Secretary of State, dated 10 April 2018, to refuse the appellant's application for asylum. In a decision, promulgated on 27 December 2018, Judge of the First-tier Tribunal Parkes dismissed the appellant's appeal on all grounds.
2. The appellant appeals with permission on the grounds that:

- (1) Ground 1: the judge failed to take into account relevant considerations, namely the appellant's involvement with Lifeline Network;
- (2) Ground 2: failure to apply the correct approach in the assessment of documentary evidence;
- (3) Ground 3: irrationality in the approach to the summons provided;
- (4) Ground 4: failure to take into account relevant considerations, namely the appellant's injuries sustained in 2008 which Judge Parkes identifies have been assessed by the expert, Mr Johnson, as diagnostic of the appellant's account. Whilst the judge notes that this is the case the judge states that this is supportive of the appellant's account of events then but that it does not "assist with later events". It was submitted that this disclosed an error of law as such injuries were relevant to the present appeal and that they provided an important part of the narrative in relation to ZANU-PF's involvement with NetOne employees such as the appellant;
- (5) Ground 5: failure to consider the appellant's claim under paragraph 276ADE(1)(vi) and/or failing to give adequate reasons for refusal of the appellant's Article 8 case.

Error of Law Discussion

3. At the beginning of the hearing Mr Walker quite properly conceded that the judge's decision was infected by material errors of law, not least that it was evident from the appellant's witness statement, as highlighted in the skeleton argument of the appellant's representative, that the appellant had made numerous references in relation to her involvement with the Lifeline Network. Mr Walker accepted that this was integral to her case in that she believed that she was at risk because of her knowledge of vote rigging in favour of ZANU-PF in conjunction with the perception by the Zimbabwean authorities that she was an informant for the West and supporting the opposition. It was her account that this view had been reached from both her activities with Lifeline Network, together with her working relationship with the previous CEO of NetOne. Mr Walker further confirmed that the remaining grounds disclosed errors, not least in relation to the treatment of the appellant's previous injuries.
4. I set aside the decision of the First-tier Tribunal with the consent of the parties. Given the nature and extent of the fact-finding required, I remit the appeal to the First-tier Tribunal to be considered de novo, other than by Judge Parkes.

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 their 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: 19 March 2019

Deputy Upper Tribunal Judge Hutchinson

TO THE RESPONDENT
FEE AWARD

As no fee was paid I make no fee award.

Signed

Date: 19 March 2019

Deputy Upper Tribunal Judge Hutchinson