



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

Appeal Number: PA/06032/2018

THE IMMIGRATION ACTS

**Heard at Bradford
On 1st July 2019**

**Decision & Reasons Promulgated
On 19th July 2019**

Before

DEPUTY UPPER TRIBUNAL JUDGE D E TAYLOR

Between

**VIMBAI [M]
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms A Hashmi of Counsel, instructed by Tann Law Solicitors
For the Respondent: Mr M Diwnycz, Home Office Presenting Officer

DECISION AND REASONS

1. This is the appellant's appeal against the decision of Judge Monaghan made following a hearing at Bradford on 3rd April 2019.

Background

2. The appellant is a citizen of Zimbabwe born on [~] 1978. She arrived in the UK in September 2017 on a valid visit visa in order to see her mother who was dying and returned to Zimbabwe in October 2017. Later that month she returned to the UK and claimed asylum.

3. The appellant's case is that she had been involved with the MDC-T from 2000 when she and her husband began attending meetings. In 2004 she began a family business together with her husband and in 2012 her husband began working on a specific contract for the 2013 elections. They began printing t-shirts for the MDC every two months or so and she sometimes went to rallies and to women's leagues. She said that she began to notice people hanging around her house which she reported to the police, following which she was detained and beaten. Eighteen months after the 2013 elections people continued to check if her husband was still formally employed by the MDC and whether she was still printing t-shirts. Since her arrival in the UK her husband has been subject to a violent assault at the hands of ZANU-PF.
4. In a careful and lengthy determination, the judge accepted that the appellant had given a consistent, detailed and plausible account of how she first became interested in the party in her student days, how she then became a member of the MDC and attended some rallies with her husband. She accepted that her business had printed t-shirts for the MDC and found that her account of events before she left Zimbabwe was generally credible. There was no real reason to disbelieve that she was taken in for questioning by the police in 2013 although the judge recorded that the appellant herself now accepts that she was treated heavy handedly rather than being beaten as she first claimed.
5. The judge then turned to the issue of risk on return. The appellant claimed that her husband was employed as director of organising and party building within the party and produced a contract of employment and a letter dated 23rd July 2012 offering him the position. The judge concluded that she could not rely on these documents because the employment contract was not signed by the employer, only by the employee and it was not plausible that the appellant's husband's full address was not stated on the offer letter, but rather only the area of Harare where he was said to reside.
6. So far as the claim that her husband had been assaulted is concerned the judge said that she could place little weight upon the medical and other evidence which had been produced. The letter from the MDC had talked about four people travelling with the appellant's husband who were part of a polling agent's coordination team whereas the appellant simply mentioned her husband being attacked. Furthermore, the letter referred to his being firstly attended by a local clinic and then being sent on to a specialist after noting the severity of his wounds, but the medical report from Dr Muskwe makes no mention of being referred on to a specialist. There was also a typographical error in that letter.
7. She concluded that the appellant had failed to substantiate her claim that her husband had been attacked by supporters of ZANU-PF in August 2018. She did not accept that he was employed by the MDC at any time or that he had any profile or significant profile associated with them. She noted that the appellant returned voluntarily to Zimbabwe in October 2017

without any difficulty and was therefore of no particular interest to the authorities at that stage.

8. The judge looked at the situation which the appellant would be returning to. Her father lives in Harare and pays for her three sons who are at boarding school there and who live with her brother in the school holidays. She therefore has two close family members who would be able to assist her.
9. On that basis she concluded that the appellant would not be at risk on return and she dismissed the appeal.

The Grounds of Application

10. The appellant sought permission to appeal on the grounds that the judge had materially erred in her assessment of credibility and failed to apply the lower standard of proof to her decision. She failed to acknowledge that the appellant's husband was a high-profile member of the MDC and had not given adequate reasons for disbelieving the documentary evidence which the appellant had adduced.
11. Permission to appeal was granted by Designated Judge Shaerf on 14th May 2018. Judge Shaerf noted that an essential part of the judge's reasoning for rejecting the part of the appellant's claim that her husband had a high profile was the fact that the employment contract was not signed but attached to the contract was a letter from the Director of Finance and Administration of the MDC which had been signed by both parties. He said that the judge's reasoning for giving little weight to the medical evidence were in part speculative and in part applied UK standards to the production of medical documents from Zimbabwe.

Submissions

12. Ms Hashmi relied on her grounds and submitted that the judge had in large part accepted the appellant's case. She relied on the letter which accompanied the contract which had been signed by both parties and which she said had not been considered by the judge. In her submission the judge's treatment of the medical evidence was inadequate. The fact that the appellant had not mentioned that her husband was travelling with other people was immaterial, but in any event, since she was in the UK at the time it was not surprising that she could not give a full account of what had happened. The typographical error was irrelevant. The appellant would be at risk on return not only on her own account but by association with her husband. She pointed out that the appellant's return to Zimbabwe predated the attack on him. Finally, she said that the judge ought to have considered the circumstances to which the appellant would be returning in Zimbabwe and whether she would have access to accommodation in line with the country guidance case of CM (EM country guidance; disclosure) Zimbabwe CG [2013] UKUT 00059.

13. Mr Diwnycz defended the determination and submitted that the judge was correct to raise an issue in relation to the job offer since the address was manifestly incomplete. Moreover, the letter from the MDC was inconsistent with the medical evidence produced. It was perfectly possible for the judge to accept that part of the evidence case was true and part was not, and this is what she had done.

Finding and Conclusions

14. I conclude that there is no error in this determination.
15. First, in relation to the contract of employment, it was entirely open to the judge to question whether this was a genuine document given that it was not signed by the appellant's husband's employer. Ms Hashmi submitted that the evidence was that there was another copy which was kept by the employer which had been signed by both of them but, as the judge observed, normal practice would be that the employee would retain the contract signed by the employer.
16. It is wrong to suggest that the judge did not consider the offer letter dated 23 July 2012. Moreover, it is difficult to see how this letter could ever have reached the appellant since the address given at the top is simply an area of Harare and does not contain either a house number or a street. This contrasts with the duplicate marriage register which gives a full address for both the appellant and her husband.
17. The judge was entitled to place little weight on these documents for the reasons which she gave.
18. So far as the medical evidence is concerned it is indeed discrepant with the letter from the MDC. The MDC letter is dated 9 August 2018 and states that the appellant's husband was part of a team which had been attacked and that he had firstly been attended by the local clinic and then further referred to a specialist after noting the severity of the wounds. The letter from a Dr Muskwe, dated 12 August 2018, three days later, by contrast, makes no mention of a referral to a specialist but says that the appellant was managed conservatively with antibiotics, anti-inflammatory drugs and ointments. Dr Muskwe said that he continues to be doing well on this conservative management and is required to have weekly reviews until advised otherwise. Plainly it was open to the judge to conclude that she could not rely on these documents as evidence of significant assault.
19. The judge, correctly, pointed out that the appellant had returned voluntarily to Zimbabwe with her mother's body in October 2017. She noted the explanation that she went through the airport with a large number of extended family members but nevertheless the appellant was clearly of no interest to the authorities on that occasion. So far as her own association with the MDC is concerned it is apparent that they have no interest in her. The assault on her husband is said to have taken place

after October 2017 of course, but as already demonstrated, there is no error in the judge's rejection of that aspect of the claim.

20. Neither is there any error in her assessment of the situation which the appellant and her daughter would be returning to in Zimbabwe. She has three teenage sons there who are at boarding school and who are being financed by her father. Her brother gives them accommodation in the school holidays. No other family members have had any difficulties at the hands of the authorities and there is no basis to conclude that the appellant would not be assisted by them upon her return. In summary, this is a thoughtful and comprehensive determination of all of the relevant issues.

Notice of Decision

21. The original judge did not err in law. Her decision stands. The appellant's appeal is dismissed.

No anonymity direction is made.

Deborah Taylor

Signed

Date 13 July 2019

Deputy Upper Tribunal Judge Taylor