



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

Appeal Number: PA/11477/2018

THE IMMIGRATION ACTS

**Heard at Field House
On 8 August 2019**

**Decision & Reasons Promulgated
On 2 September 2019**

Before

DEPUTY UPPER TRIBUNAL JUDGE JORDAN

Between

**MICHEL [T]
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms R. Head, Counsel, instructed by Cassadys Solicitors
For the Respondent: Mr C. Avery, Senior Home Office Presenting Officer

DECISION AND REASONS

The appellant is a citizen of the DRC who was born on 6 January 1990. He appealed against the determination of First-tier Tribunal Judge Sangha promulgated on 18 January 2019 following a hearing that took place in Birmingham on 3 December 2018. The appellant had claimed that he was at risk on return to the DRC and consequently was entitled to asylum or humanitarian protection.

The judge did not believe the appellant. It was apparent that credibility was in issue from the outset and the judge's concluded that the appellant had failed to give reliable evidence and, as a result of that, his claim for international protection failed. He did not believe that the appellant had been engaged in

political activities on behalf of APARECO in London or that he came to the adverse attention of the authorities in the DRC as he claimed; nor did he accept that he was involved in distributing leaflets for APARECO in the DRC. His determination amounted to a comprehensive rejection of the appellant's credibility, leading to his deciding to dismiss the appeal.

There was before the judge a bundle. It consisted of a statement of the appellant at pages 1 to 4, a copy of his passport, a search warrant with a translation, a lawyers' letter with translation and an APARECO letter dated 28 November 2017 at page 13 of that bundle. I am satisfied that those documents were referred to the judge, having considered the Record of Proceedings.

In the course of the oral evidence that the appellant gave, he confirmed the contents of his statement and, in particular, he confirmed the contents of paragraph 15, in which he referred to a DHL envelope by which documents had been sent to him on 26 November 2018. Reference is made to the passport, to the lawyers' letter, to the search warrant and the letter from APARECO which is in the bundle. It is also clear that those letters were referred to in Counsel's submissions although there is no skeleton argument, as far as I am aware, in which reference is made to them.

So, it follows that both the witness statement and the appellant's oral evidence as well as the oral submissions referred to this documentation. Some of the documentation is highlighted in a yellow highlighter. I myself use an orange highlighter. The yellow highlighting appears to suggest that the judge looked at these documents, at least in the course of the hearing.

Unfortunately, no reference is made to them in the body of the determination. They were material documents in that they tended to support the appellant's claim of being at risk on return to the DRC and it was for the judge to consider the weight that he attached to them and in particular to make any assessment as to their authenticity, given that they were before him and their provenance was, at least in part, provided by the envelope from the DHL delivery.

It is not clear, (although there is an assumption), that he rejected these documents or otherwise he could not have reached the findings that he did reach. He was required to make specific reference to them and to give his reasons why he was attaching no weight to them or to the lawyer's letter. For these reasons, I find that there was a material error in the course of the preparation of this determination and I set the determination aside.

This will require the decision to be re-made; new findings of fact are needed. As this is, in essence, a fresh hearing, it is better determined in the First-tier Tribunal.

ANDREW JORDAN
DEPUTY JUDGE OF THE UPPER TRIBUNAL
22 August 2019