



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

Appeal Number: PA/11148/2016

THE IMMIGRATION ACTS

No hearing

29 November 2018

**Decision & Reasons
Promulgated
On 10 December 2018**

Before

MR C M G OCKELTON, VICE PRESIDENT

Between

PRUDENCE [N]

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

DETERMINATION AND REASONS

1. On 29 October 2018 I wrote to the parties as follows:

"I have reviewed the file in this case.

Permission to appeal was granted for the following reasons:

"The grounds allege that the Judge referred to the public interest factors in s117B of the 2002 NIA Act in the context of an asylum claim, which was an arguable error of law. The Judge referred to the appellant needing to "prove" that the agent took her passport (at para 17) which was arguably in error. The wording of para 17 is difficult to follow. Although the Judge referred to the rules (paras 339L and 339N) they do not appear to have been applied in the credibility assessment. Regarding delay, the appellant arrived in Belfast on 1 January 2016 and claimed asylum on arrival. The Judge refers to a lack of corroboration of events which occurred in

Zimbabwe (e.g. at paras 20-21) but the circumstances of the appellant's claim were such that it was not reasonable to expect her to provide corroborative evidence.

I have carefully considered the decision. The reference to s117B has no place in an asylum appeal and the Judge's reference to this is arguably in error. The decision records that the appellant arrived in Belfast on 4 January 2016 (not 1 January 2016 as alleged in the grounds) but she appears to have applied on arrival so that any reference to delay in applying after arrival in the UK was arguably in error. The grounds state that it was not reasonable to expect the appellant to provide corroborative evidence which may be the case. However, the Judge makes no reference to the relevant standard of proof before para 34 in which there is a reference to the "lower standard" in respect of an assessment of internal flight. There is arguably an error in the Judge's approach in terms of the burden of proof, including the requirement for corroborative evidence. There is an arguable error of law in the decision. Permission to appeal is granted."

I propose without more ado to allow the appeal, set aside the determination of the First-tier Tribunal and direct a fresh hearing before that Tribunal. Any submissions to the contrary will be considered if received within **14 days** of the date of this letter."

2. No response has been received.
3. I now allow the appeal to this Tribunal, set aside the decision under appeal on the ground of error of law. I remit the appeal to the First-tier Tribunal and direct that it be determined afresh.

C. M. G. OCKELTON
VICE PRESIDENT OF THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER
Date: 29 November 2018.