Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: PA/06979/2019

THE IMMIGRATION ACTS

Heard at Field House	**Decision & Reasons Promulgated**
On 28 July 2021	**On 01 October 2021**

Before

UPPER TRIBUNAL JUDGE RINTOUL
UPPER TRIBUNAL JUDGE BLUNDELL

Between

BM (ZIMBABWE)
(ANONYMITY DIRECTION MADE)

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:
For the Appellant: Mr Bhebhe of Njomane Immigration Law
For the Respondent: Mr Melvin, Senior Presenting Officer

DECISION AND REASONS

1. On 18 December 2019, a panel of the Upper Tribunal comprising Upper Tribunal Judges O'Connor and Plimmer set aside the decision of the First-tier Tribunal in which the appellant's appeal had been dismissed. The panel concluded that the FtT had fallen into procedural error in refusing to adjourn the hearing and that its decision was in any event inadequately reasoned. The decision of the FtT was set aside in its entirety and the appeal was retained for redetermination *de novo* in the Upper Tribunal so that consideration could be given 'to the assertion that the Home Office are organising interviews between former asylum applicants and the Zimbabwean authorities'.
2. The rehearing of the appeal has been significantly delayed as a result of the Covid-19 pandemic. On 23 November 2020, the Principal Resident Judge issued a Transfer Order so that the appeal could be

heard by a differently constituted Tribunal. So it was that the appeal returned before this panel on 28 July 2021.

Background

3. The appellant is a Zimbabwean national who was born on 8 January 1963. He has a lengthy immigration history.

4. He arrived in the UK, using his own passport, on 24 September 2002. He was given leave to enter for a month. He applied for further leave as a visitor. That application was refused and an appeal against the refusal was dismissed, with appeal rights becoming exhausted on 26 September 2005.

5. The appellant made an application for leave to remain on human rights grounds (Article 8 ECHR) in October 2013. The application was refused in the same month, and the appellant was served with a notice as an overstayer (Form IS151A). The appellant lodged an appeal against the refusal but he subsequently withdrew the appeal on 2 July 2014.

6. On 30 October 2014, the appellant claimed asylum. He asserted that he would be at risk on return to Zimbabwe on account of his membership of the MDC and his *sur place* activities. He stated that his son, Farai, had been targeted by the regime in his stead. The application was refused on 30 April 2015. He appealed. The appeal was dismissed by First-tier Tribunal Judge Green on 28 April 2016 and permission to appeal was refused by the FtT and the Upper Tribunal. Appeal rights were exhausted on 1 June 2016.

7. The appellant made further submissions on 16 March 2017. The respondent refused to treat those further submissions as a fresh claim on 22 March 2017.

8. The appellant made a second set of further submissions on 22 March 2019. The respondent accepted that these submissions amounted to a fresh claim but refused that claim on 10 June 2019. It is against that decision that the appellant appeals.

The Starting Point

9. This being the appellant's second appeal against a refusal of international protection, we are required by Devaseelan [2003] Imm AR 1 to take the earlier decisions as our starting point.

10. The first decision was issued on 16 September 2005 by Immigration Judge Beg. The appellant did not attend the hearing before her on 8 September 2005. The Immigration Judge noted that the appellant's application for leave to remain as a visitor had been made shortly after his arrival in the UK; that he had made a decision not to claim asylum; and that his stated intention was to work as a driver of heavy vehicles or buses. She found no basis for him to remain in the UK, whether under the Immigration Rules or otherwise.

11. The second decision was issued by First-tier Tribunal Judge Green (as he then was) on 28 April 2016. Judge Green did not accept that the appellant had been politically active in Zimbabwe or that he was been persecuted before his departure. He had delayed in claiming asylum and that decision had been motivated solely by the chaotic economic and political situation in Zimbabwe. He had no significant profile with the MDC and he had not established that his *sur place* activities would render him of interest to the Zimbabwean authorities. The appellant was not at that stage said to be in a relationship and there was proper justification for interfering with any private life which the appellant had accrued in the UK.

The Fresh Claim

12. The appellant's further submissions run to fifteen pages. Under the sub-heading 'Difference between the previous claims and the current claim', however, the appellant provided a concise summary of the basis upon which he submitted that he had a fresh claim:

> I was recently interviewed by an authority from Zimbabwe, in connection with my stay in the United Kingdom, and my asylum claim. As a result of the interview, the Zimbabwean authorities are aware of my identity, my home area, my relatives, my asylum claim, my political activities in the UK, and other details.
>
> The details which the Zimbabwean authorities extracted during the interview expose me to risk of persecution if I am returned to Zimbabwe. This form of risk has not been considered before.
>
> Under Article 8, I have private and family life with my partner [RV], a British national who was born on 31 May 1955. If we return to Zimbabwe, we will face insurmountable obstacles to reintegration. Our relationship has not been considered in previous applications.
>
> Under 276ADE, I submit that the conditions in Zimbabwe have significantly changed to such an extent that if I am returned, I will face very significant difficulties on reintegration.

13. The appellant then provided further particulars of his claim, which included details of the interview which had taken place on Home Office premises and the subsequent attack of his uncle by members of the Zimbabwean national army and the CIO. The appellant submitted that he would be known as an oppositionist on return to Zimbabwe and would be at risk as such. He also submitted that his family life with his British partner could not continue in Zimbabwe because she was HIV positive and as dependent upon antiretroviral treatment which she could not receive in that country.

The Respondent's Decision

14. The respondent's decision is also lengthy, setting out tracts of background information and reported decisions. The essential conclusions were as follows. In light of the lack of detail, the respondent did not accept that the appellant had attended an interview with the Zimbabwean authorities in the UK: [16]-[18]. In relation to the appellant's *sur place* activities, the respondent considered that there was significantly less politically-motivated violence in Zimbabwe and that the appellant did not have a profile which would cause problems: [19]-[32]. The respondent did not accept that the appellant enjoyed a genuine and subsisting relationship with RV or that there were insurmountable obstacles to the continuation of the relationship in Zimbabwe: [43]-[69]. The respondent did not accept that the appellant's removal would give rise to very significant obstacles to his reintegration to Zimbabwe or to a breach of Article 8 ECHR: [70]-[82].

The Appeal Before the Upper Tribunal

15. The appellant relies on two bundles of evidence. The first, which was filed in support of his appeal to the FtT, runs to 184 pages and consists of his witness statement and further evidence in support of that statement. The second, which was identified as the supplementary bundle before us, runs to 148 pages and consists of an additional witness statement and evidence in support of the same.

16. It has been accepted since a Case Management Hearing in January 2020 that the appellant was indeed interviewed by the Zimbabwean authorities on Home Office premises. A short bundle which was filed and served in preparation for that hearing contains a list of eight Zimbabwean nationals who were interviewed under the 'ZWE f2f scheme' at Eaton House on 11 December 2018. Also contained within that bundle is a record of the outcome of the appellant's documentation interview, showing that the appellant had been accepted to be a Zimbabwean national and that he would be issued a travel document. That form is dated 7 February 2019. The bundle also contains an Interim Operational Instruction dated September 2018, recording that an official from the Zimbabwean government had been seconded to the UK and would 'consider and process all [Emergency Travel Document] applications'. Interviews would take place at a variety of locations including reporting centres. There is also a 'Returns Logistics guide to travel documents for removal to Zimbabwe'. This document confirmed, amongst other things, that a 'mandatory face to face interview is required to confirm nationality before an ETD can be issued'. We note that these procedures have subsequently been revisited and any such interviews must take place in the presence of a Home Office official.

17. In preparation for the hearing before us, the respondent also filed and served a bundle containing a skeleton argument and background material in support of it.

18. We heard oral evidence from the appellant but not from his British partner, who we were told had decided not to attend the hearing for fear of being removed to Zimbabwe. We do not intend to rehearse the

oral evidence in this decision. We will refer to it insofar as it is necessary to do so to explain our findings of fact.

Submissions

19. Mr Melvin relied on the letter of refusal and the skeleton argument which had been settled by his colleague. He submitted that the appellant had not been a credible witness. The appellant had been interviewed by the Zimbabwean authorities in December 2018 but he had only made his fresh claim in March 2019, after an article had appeared in The Guardian about the Home Office practice of allowing a Zimbabwean official to interview asylum seekers without supervision. The appellant had said in evidence that he told his representatives about the interview straight away. If he had been placed in fear of his life by that interview, that would have been brought to the respondent's attention immediately. There was no credible evidence to show that anything had happened to any member of the appellant's family in Zimbabwe as a result of the interview. The account of his uncle having been attacked was vague and had been augmented by further embellishments during the appellant's oral testimony. If, as the appellant had claimed in evidence, his uncle had been targeted repeatedly and had decided to flee to Zambia as a result, that would have appeared in the supplementary statement which was made shortly before the hearing. There was no witness statement from the appellant's uncle or aunt and the photographs in the bundle had little corroborative value. Notably, the letter from Chitungwiza Central Hospital stated that the appellant's uncle had been admitted to that hospital, as a result of an attack, for three days in December 2019. On the appellant's account, however, the attack had occurred in 2018 and his uncle was in Zambia at the time that he was meant to be in Chitungwiza Central Hospital. The appellant had also given an account of his uncle's children being taken away by Zanu PF before his uncle was assaulted but there was no mention of this in his earlier accounts.

20. As for the appellant's *sur place* activities, it was apparent that he had been involved with the Zim Vigil in the past but there was nothing to show that his activities had continued. There was certainly nothing from the group to confirm that the appellant continued to participate.

21. As for the appellant's relationship, we were invited by Mr Melvin to find that it did not exist. The appellant's partner had not attended before the FtT or the Upper Tribunal and it was not credible to assert that a British citizen would be afraid of being returned to Zimbabwe.

22. Mr Behbe relied upon his skeleton argument. The first question was whether the appellant qualified for international protection. It had been accepted by the respondent that the interview with the Zimbabwean authorities had taken place and it had evidently exposed the appellant to an enhanced risk. In any event, the appellant had adduced evidence that he was involved in a good deal of *sur place* activity. These activities had recently been affected by the pandemic but the appellant had remained active, particularly on social media. The position had not changed appreciably since the country guidance decisions and Zimbabwe was still a violent and repressive place.

23. Mr Behbe submitted that the appellant would be at risk on return to Zimbabwe even if his account of what had befallen his uncle was not accepted. The risk to the appellant flowed from the interview which had taken place and his *sur place* activity.

24. It was regrettable, acknowledged Mr Behbe, that the appellant's partner had not attended the hearing. There was nevertheless clear evidence that they lived together and they had been a couple for three years. It was plausible that she was fearful of being removed from the UK.

25. We retired to consider our decision. On return, we asked Mr Melvin for submissions on the appellant's internet profile. He submitted that there was no evidence that the Zimbabwean authorities (in contrast, for example, to the Iranians) asked for Facebook passwords or conducted Google searches about those who returned. Mr Behbe submitted that there was a real risk that the appellant's extensive social media activities would have come to the attention of the authorities or that it would do so upon return.

Analysis

26. A person is a refugee and is therefore entitled to asylum pursuant to Directive 2004/83/EC, (the Qualification Directive) if, (in the words of Article 1A of the Geneva Convention relating to the Status of Refugees) owing to well-founded fear of being persecuted for reasons of race, religion, nationality or membership of a particular social group or political opinion, he is outside the country of his nationality and is unable or, owing to such fear, unwilling to avail himself of the protection of that country.

27. The appellant bears the burden of proving that he satisfies the definition above, although the standard of proof is a low one. It suffices if he can demonstrate that there is a reasonable degree of likelihood or a real risk of his being persecuted: RT (Zimbabwe) [2012] 3 WLR 345, at [55].

28. Judge Green concluded in 2016 that the appellant had fabricated his account of events in Zimbabwe and that he had claimed asylum not because he feared for his life there but in an attempt to secure a better life in the United Kingdom. Having noted the appellant's immigration history, which included claiming asylum after being served with a notice to an overstayer, the judge found that the appellant had treated the protection claim as a remedy of last resort and found that he was merely 'clutching at straws'.

29. Having seen and heard the appellant give evidence over the course of a relatively lengthy hearing, we reach a similar view as to his credibility. We start with his account of being interviewed by a Zimbabwean official in December 2018. It is accepted by the respondent that this interview took place on 11 December 2018 and that no Home Office official was present during the interview. To that extent, the appellant's account is not in issue between the parties.

30. What is very much in issue between the parties is the appellant's account that the interviewer's questions extended significantly beyond gathering the data required for redocumentation, into the details of his family in Zimbabwe and the particulars of his asylum claim. In undertaking our assessment of this aspect of the appellant's claim, we have taken careful account of what is said in the background material about the adverse interest shown by the Zimbabwean regime in its political opponents, as recorded in the respondent's Country Policy and Information Note entitled *Zimbabwe: Opposition to the government*, version 4, February 2019 and the extant country guidance in CM (EM country guidance; disclosure) Zimbabwe CG [2013] UKUT 59 (IAC).

31. As Mr Melvin submitted, it is notable that the appellant did not seek to raise any concerns about the December 2018 interview until March 2019, after an article had been published in The Guardian about the Home Office's practice of arranging such interviews. The appellant confirmed in evidence before us that he was legally represented at the time of the interview. He claimed that he had told his representatives about the interview shortly after it had taken place. If the appellant had told his legal representatives that he was subjected to an interview with a Zimbabwean official in which he was pressed to reveal details of his asylum claim in the UK, we consider that a complaint would have been made about his treatment, and that it would have been made immediately. The fact that nothing was said about the interview until the article had appeared in The Guardian suggests that nothing untoward passed between the appellant and the Zimbabwean official at Eaton House on 11 December 2018. Whilst it is plausible that a seconded official from the Zimbabwean government would show an interest in the activities of the Zimbabwean diaspora, we consider the absence of a complaint from a legally represented individual to be particularly telling.

32. We have similar concerns in relation to the appellant's account that his uncle was targeted after the interview took place. The appellant maintained in his fresh claim and in his witness statements that his uncle and aunt were targeted by pro-regime actors shortly after the interview. In evidence, he said that the attack had taken place on 18 December 2018. In his supplementary statement, the appellant referred to medical evidence he had obtained from Zimbabwe in support of this claim. This evidence – from Chitungwiza Central Hospital – serves only to contradict the appellant's account. It states that his uncle was admitted to the hospital between 18 December and 22 December *2019* after having been assaulted by Zanu PF supporters. The letter therefore suggests that the attack took place in 2019, not in 2018, as maintained by the appellant.

33. As Mr Melvin noted in his oral submissions, there is a paucity of other evidence to confirm these important aspects of the appellant's claim. There is no statement from his uncle or his aunt, despite his claim in oral evidence that he remains in contact with her and that it was she who went to the hospital to obtain the letter which we have considered above. There are some photographs of an injured man in the original bundle but there is nothing to establish the identity of the individual

who appears in the photographs. There is a poor photocopy of what appears to be some medical notes in an exercise book but, again, there is nothing more than the appellant's evidence to establish that these relate to his uncle. In any event, the notes bear a date in 2018, thereby contradicting the letter from the hospital.

34. There are further difficulties with the appellant's account of his uncle and aunt having been attacked in Zimbabwe in the immediate aftermath of his interview with a Zimbabwean official. The first is that he took no action in response to the information, which was supposedly communicated to him on 19 December, the day after the attack. In the appellant's first witness statement, he states that his aunt told him about these events and said that he would be killed if he returned to Zimbabwe. Nevertheless, the appellant made no further claim for asylum at that point, and waited a further three months or so to do so. The appellant's inaction causes us to doubt the truthfulness of his account, particularly when it is borne in mind that he was, by that stage, a legally represented man with a working knowledge of the immigration and asylum system in the United Kingdom.

35. The second difficulty with the appellant's account of what befell his uncle is that he demonstrably embellished that account in his oral evidence. He stated that the Zanu PF supporters who had gone to his uncle's house had made arrangements for his uncle's children to be taken away before he was beaten, whereas there was no suggestion of any such safeguarding concerns in any of the appellant's written accounts.

36. More significantly, the appellant said in evidence before us that his uncle had returned home after the attack to find that Zanu PF supporters had taken to singing pro-regime songs in his yard. The appellant stated that this group was known in the area for undertaking what he described as political 'cleansing'. He said that the repeated presence of the group caused his uncle to fear that he would be attacked again. Such was his fear that he decided to flee to Zambia, either in 2019 or during the first Covid-19 lockdown (the appellant could not be more precise in his oral evidence). There was no mention in any of the appellant's written accounts of this ongoing pressure from Zanu PF. Nor was there any suggestion in the written evidence that his uncle had been compelled to leave the country. That is a significant detail, the omission of which from his detailed written accounts casts further doubt on the narrative as a whole.

37. In common with Judge Green, who dismissed the appellant's first protection appeal in 2016, we have significant concerns about the truthfulness of the appellant's version of events in Zimbabwe and the UK. With those concerns in mind, we consider the appellant's *sur place* activity.

38. Judge Green expressed a number of concerns about the evidence adduced before him in support of the sur place activity. At that stage, the appellant stated that he was a member of the MDC but, as Judge Green observed, at [22], there were difficulties with that claim. The evidence which was said to emanate from the MDC did not confirm

with any specificity when the appellant was said to have joined in Zimbabwe, nor did it state when the appellant had become a member in the UK.

39. The same letters from the MDC appear before us, and seem to indicate that the appellant's MDC membership in the UK began after he had been served with an overstayer's notice in October 2013. There is little mention of any anti-regime activity in the UK in the period between the appellant's arrival in 2002 and his attempts to regularise his status from 2013 onwards. The only reference we have been able to detect is to the appellant having signed the register at the Zim Vigil in December 2010 (the letter from Zim Vigil of 21 December 2019 refers). That letter also confirms that the vigil has been taking place since 2002, so there were eight years in which the appellant is not recorded as having taken any part. The subsequent letters (11 February 2017 and 30 January 2017) confirm that the appellant 'is a supporter of the vigil' and that he 'attends the Zimbabwe Vigil', without any indication of the frequency of his attendance or when it began in earnest. As with the MDC, it appears that the appellant's interest in the Zim Vigil intensified when it most benefited his protection claim.

40. The same is true of the appellant's membership of the charity called Restoration of Human Rights (ROHR) Zimbabwe, which confirms in its letter of 2 December 2019 that the appellant joined in 2015. Mr Tapa, the President and Founder of ROHR, speaks in the letter to the appellant having risen to become a part of the organising team of the organisation in 2017 and to his becoming a 'key member' of the Zim Vigil. We note that Mr Tapa writes of the appellant's 'very strong passion in support of human rights programs in Zimbabwe'. We do not consider the appellant to have any such passion. We consider that the appellant has intensified his participation in these movements so as to improve his chances of securing asylum and not because of any genuine commitment to their cause.

41. We note that the appellant has also been active in his own right, outside his participation in the MDC, Zim Vigil and ROHR. Submitted with the appellant's further submissions were pages from the www.zimbabwevoice.org website, showing that the appellant had a presence on the website which was described as [BM] TV. These pages were printed in August 2014 and we note the concerns expressed by Judge Green in 2016, that the appellant had been unable to access the site at the hearing before him and that there was inadequate evidence to show that the site was still live. In the pages, the appellant speaks about his supposed commitment to the downfall of Robert Mugabe. He is described as '[BM], Dissident Human Rights Activist'.

42. Another document which was submitted to the respondent in support of the fresh claim is a printout from YouTube dated 26 June 2014, containing an interview with the appellant described as 'Zimbabwe Human Rights Activist [BM] is adamant that Mugabe regime must go'. We were not asked to view this interview. We proceed on the basis that the title is an accurate reflection of the contents, and that the interview is still present on YouTube. We have no basis for concluding

otherwise. Again, however, the timing of this interview is revealing, having been uploaded shortly before the appellant withdrew his human rights appeal in favour of claiming asylum in 2014.

43. We also note that the appellant is identified as the author of some articles on the internet such as one at p34 of the supplementary bundle, published on the 3 February 2017 on The Zimbabwean website. The article is very short and the thrust of it is encapsulated in the title 'Mugabe must be forced to go'.

44. The photographs which appear at pp38 are of the appellant sitting in an armchair and holding small signs bearing slogans such as 'No to Zanu PF, No to abduction & Torture'. The first image appears to have been emailed to the Zim Vigil Co-ordinator in July 2020. The second and third appear to have been published on the Zim Vigil's page on the photography website Flickr. There are also some 'Tweets' from the appellant in December 2019, expressing fairly robust of the government of Zimbabwe.

45. There is therefore evidence of relatively recent activity on the part of the appellant, which has been published on the internet. We note also that the appellant's name features regularly on the pages of the internet site of the Zim Vigil, where he is thanked for various contributions and assistance that he has rendered to the movement.

46. Also in the supplementary bundle is a printout of a Google Search on the appellant's name. The search was undertaken on 8 July, in preparation for the hearing before us. The appellant's name is detected on a variety of different websites, including Zim Vigil, The Zimbabwean and WhatsoninHarare. The links are to articles with titles such as 'Mugabe's mega delusions' and 'Zanupf is the cancer killing Zimbabwe' and to various photographs, on Flickr and other sites, particularly showing the appellant protesting outside the Zimbabwean Embassy. There are seventeen such links produced by the Google Search.

47. Drawing these threads together, we can summarise our primary findings of fact quite shortly. Judge Green's assessment from 2016 is our starting point and we see no reason to move beyond it in relation to the appellant's account of historical MDC participation and difficulties arising therefrom. That claim was a cynical attempt to manipulate the asylum system to his advantage after he had been served with an overstayer's notice. We accept that the appellant was interviewed by a Zimbabwean official on 11 December 2018 but we do not accept that the interview progressed beyond questions relating to documentation. The appellant's account of those events and the events which were said to have befallen his family in Zimbabwe as a result is problematic for the range of reasons we have set out above and we are unable to accept it on the lower standard. The appellant's *sur place* activity has been carried out in bad faith from first to last. There is no credible evidence to confirm that he had any interest in such activity before he was concerned that he was at risk of removal from the UK and he has endeavoured to increase that activity as he continues to attempt to prevent his removal from the UK. Insofar as he

has persuaded individuals who have written letters of support that he has a passion for changing Zimbabwe, we come firmly to the conclusion that those people have been hoodwinked.

48. The appellant will not be at risk on return to Zimbabwe as a result of anything he did in that country before he left in 2002. He will not be at risk as a result of the interview with a Zimbabwean official in 2018. We do not accept that his family in Zimbabwe have experienced any problems as a result of anything he has said or done in Zimbabwe or in the UK. The sole question, therefore, is that which we put to Mr Melvin at the end of the hearing: whether the appellant will be at risk on return to Zimbabwe as a result of his association, published extensively on the internet, with websites and articles which are critical of the Zimbabwean regime. The answer to that question is reached in two steps, both of which are established by authority.

49. The first step is to recognise that the Zimbabwean regime has invested considerable resources in seeking to infiltrate groups in the United Kingdom to identify those who support the opposition or who are activists in the country. That was the conclusion of the AIT at [104] of HS (returning asylum seekers) Zimbabwe CG [2007] UKAIT 94 and it was confirmed at [202] of CM (EM country guidance; disclosure) Zimbabwe CG [2013] UKUT 00059 (IAC) that HS remains the country guidance decision regarding risk at the point of return in Zimbabwe. Given the extent of the appellant's activity within the diaspora and online, we consider that it is reasonably likely that the appellant will have been identified as an opponent of the regime, notwithstanding our finding that all of his activities in the UK have been in bad faith.

50. The second step also follows the guidance in HS, which records at [265]-[266] that the CIO at the airport will have identified in advance, from the passenger manifest, those in whom there might be a further interest. That includes 'those in respect of whom there is any reason to suspect an adverse political, criminal or military profile.' We find it reasonably likely that the appellant's cynical activities in the UK will have placed him in this category. He will not be treated merely as a failed asylum seeker, as was HS herself, and will instead be a person in whom the CIO have sufficient interest to justify the type of interrogation which has been accepted in HS and other country guidance decisions to carry with it a real risk of ill-treatment.

51. There is nothing in the more recent material adduced by the respondent which persuades us that the circumstances have altered materially since HS was decided. That decision was cited without any such caveat in the respondent's skeleton. Whilst we note that there is significantly less politically motivated violence than there was at the time that HS was decided, it continues to be the country guidance in respect of these issues and it is clear from the CPIN that the regime continues to take repressive action against those who are actively critical of it. We note, in fact, that the CPIN contains examples of individuals who have been targeted for online activity which is critical of the government. At 4.9.3, there is an example of a US citizen who was arrested over a tweet which insulted Mugabe and at 7.2.17, there is an example of an individual who was arrested for posting statements

on Facebook which were insulting to the current President. The posts to which the appellant is linked – including that which refers to Zanu PF as a 'cancer' – clearly falls within the same bracket.

52. It is as a result of these conclusions, which we reach with the utmost reluctance, that we conclude that the appellant will be at risk on return to Zimbabwe on account of his imputed political opinion. Through his cynical activities since he was served with Form IS151A in 2013, the appellant has generated a profile for himself which will already be known to the Zimbabwean authorities and which will expose him to a risk of politically-motivated violence at the airport in Harare. His appeal will consequently be allowed on Refugee Convention and Article 3 ECHR grounds.

53. It is unnecessary, in those circumstances, for us to say very much about the alternative arguments advanced by Mr Behbe. We are not persuaded that the appellant would experience very significant difficulties to reintegration to Zimbabwe. He spent most of his life in that country and he has (even on his own account) one relative there to whom he can turn for support. He is a diabetic but there is no evidence to show that he could not receive treatment for that common condition there. He speaks the language of the country and he could find employment in due course.

54. Nor do we consider that the appellant has an Article 8 ECHR claim on family life grounds. We note the statements made by his claimed partner. We note that there is also some evidence that they live together in Surrey. She did not attend the hearing before the FtT and she did not attend the hearing before us, however. We do not accept the appellant's evidence that she was too scared to come to the hearing because she feared that she might be removed from the UK. Even making allowance for the fact that she might not have any real knowledge of immigration law, we cannot accept that she was in any such fear as she is a British citizen. We do not consider the appellant to have discharged the burden on him of establishing that he is in a genuine and subsisting relationship with a British citizen.

Notice of Decision

The appeal is allowed on asylum and human rights grounds (Article 3 ECHR).

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. We make this direction because this is a protection appeal.

M.J.Blundell

Judge of the Upper Tribunal
Immigration and Asylum Chamber

6 September 2021