IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2023-005024
HU/57486/2022; IA/11101/2022

THE IMMIGRATION ACTS

Decision & Reasons Issued:
On 30 December 2024

Before

UPPER TRIBUNAL JUDGE LANE

Between

Tichawona Chireya
(NO ANONYMITY ORDER MADE)

Appellant

and

Secretary of State for the Home Department

Respondent

Representation:

For the Appellant: Mr Corban
For the Respondent: Mr McVeety, Senior Presenting Officer

Heard at Manchester Civil Justice Centre on 13 August 2024

DECISION AND REASONS

1. By a decision promulgated on 2 April 2024, Deputy Upper Tribunal Judge Mahmood (as he then was) allowed the appeal of the Secretary of State against a decision of the First-tier Tribunal. Deputy Upper Tribunal Judge Mahmood's decision sets out the background to the resumed hearing which, following a transfer order, I heard at Manchester on 13 August 2024. I note the findings of fact which Deputy Upper Tribunal Judge Mahmood preserved [17] from the First-tier Tribunal's decision. The parties agree that the appeal turns entirely upon the appellant's ability to prove to the necessary standard of proof that he would face very significant obstacles to his integration upon return to Zimbabwe.

2. The appellant attended the resumed hearing and was briefly cross examined by Mr McVeety, Senior Presenting Officer for the Secretary of

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State. The appellant said that he had not been back to Zimbabwe since he has been living in the United Kingdom.

3. The burden of proof is on the appellant and the standard of proof is the balance of probabilities.

4. Mr Corban, for the appellant, submitted that the appellant would face very significant obstacles on return to Zimbabwe. He would be unable to participate in the life and culture of that country. He would have no work and would not have access to state benefits, even assuming that any are available. The appellant has family members in South Africa, but none in Zimbabwe. It would be 'unrealistic' for the appellant's mother to relocate to be with him in Zimbabwe.

5. Mr McVeety, Senior Presenting Officer for the Secretary of State, submitted that, whilst the appellant would find living in Zimbabwe 'not easy' in the first instance, the difficulties he would be likely to face as a young, capable and healthy adult male could not be properly and objectively described as 'very significant.' Moreover, the appellant has not brought an asylum or Article 3 ECHR claim regarding his possible return to Zimbabwe. Most significantly, the appellant had lived in Zimbabwe until he was 17 years old (he is now 35 years old). His knowledge of life in Zimbabwe should still be extensive as a consequence; he would not be an outsider, never able to participate in Zimbabwean society. He would not, as the First-tier Tribunal judge found (in a finding which has not been preserved), be unable to become again an 'insider' in Zimbabwean society. Further, the findings of fact preserved from the First-tier Tribunal' decision concern the appellant's rehabilitation following his criminal offending and not the existence of very significant obstacles to return to Zimbabwe.

6. I have considered the evidence, both oral and documentary, carefully. I have carried out a broad evaluative judgment of the evidence. I have considered the submissions of both parties. As stated in *Kamara v SSHD* [2016] EWCA Civ 813 (and confirmed *in NC v Secretary of State for the Home Department* [2023] EWCA Civ 1379) the test for 'very significant obstacles' is objective. As the Court of Appeal made clear in *NC*, a judicial decision maker will fall into error 'by considering only the subjective evidence without regard to reasonable steps the appellant could be expected to take.' In this appeal, I was struck by the failure of the appellant to give detailed evidence of the problems which he claims he would actually be likely to face in Zimbabwe beyond being there without work and with family members being in neighbouring South Africa. His objections to returning to his country of nationality where, significantly, he had lived all his life until the very start of his adulthood were, in my judgment, only subjective. Given that the burden of proof in the appeal is on the appellant, I find that he has failed to discharge it. I agree with Mr McVeety that returning to Zimbabwe after several years in the United Kingdom will not be particularly pleasant for the appellant but the obstacles to his return are not, in my opinion, very significant. I also

agree with Mr McVeety that there is no evidence of exceptionally close between the adult appellant and his adult family, in particular his mother; any dependency which exists here in the United Kingdom is the consequence of the appellant's immigration status (i.e. that he is unable to work) a factor which would not affect him in Zimbabwe. Following *NC,* I find that the appellant could take steps on return to seek work in a country where the rate of unemployment is less than 10%; the appellant has made no attempt in his evidence to explain what he could do to seek work or why he could not find work.

7. In the light of what I say above, I find that the appellant has failed to show that there would be very significant obstacles to his integration on return to Zimbabwe. I remake the decision dismissing his appeal against the decision of the Secretary of State.

Notice of Decision

I have remade the decision. The appellant's appeal against the decision of the Secretary of State refusing his human rights application is dismissed.

C. N. Lane

Judge of the Upper Tribunal
Immigration and Asylum Chamber

Dated: 22 November 2024