



Zimbabwe Judgment

The Court of Appeal today handed down judgment in AA (Zimbabwe) v Secretary of State for the Home Department. The judges allowed the appeal of AA against the decision of the Asylum and Immigration Tribunal that he could be safely removed to Zimbabwe. This is the ongoing challenge to the safety of removals to Zimbabwe. The case has been sent back to the Tribunal to reconsider AA's appeal.

Substance of the case

AA (Zimbabwe) is a test case. The key question is whether it is safe to forcibly remove to Zimbabwe any person who has claimed and been refused asylum in the UK. AA is himself someone who has been refused asylum in the UK. His account of what happened to him before he came to the UK has been disbelieved. Now his case is simply that because he has claimed asylum in the UK, he will be recognised as a failed asylum seeker and therefore mistreated by the authorities if forcibly removed to Zimbabwe.

If AA is successful with his appeal, it would indicate that it is simply not safe to be removing any Zimbabwean asylum-seeker in the UK to that country.

Today's Court of Appeal ruling

The Court of Appeal has now decided that the latest decision of the Tribunal is inadequate. The evidence before the Tribunal – particularly of how the Zimbabwean Central Intelligence Organisation (CIO) treats asylum-seekers who are forcibly removed to Harare airport from the UK – was not fully considered. Also, the Tribunal failed to appreciate that any unnecessary physical violence by the CIO (or other authorities) is capable of amounting to a violation of Article 3 of the European Convention on Human Rights.

The Court of Appeal has ordered the Tribunal to reconsider its decision, and give particular attention to this evidence.

Effect of the Court of Appeal ruling

The suspension on removals to Zimbabwe must continue until the Tribunal has reconsidered this case. The Tribunal will likely want to list AA (Zimbabwe) to be heard relatively quickly. However, the precise dates may depend upon the availability of the judges and any new evidence either AA or the Home Office may ask to submit.

Since, for the time being, Zimbabwean asylum-seekers cannot be removed to that country, it ought to remain the general case that Zimbabweans should not be detained and should be able to access support (whether section 4 or NASS). For further advice in particular cases, please consult a legal representative.

Background to the case

In January 2002, the Home Office suspended all removals to Zimbabwe. At the time, there were several concerns that it was not safe to remove anyone to that country because the authorities would mistreat those they regarded as traitors – and seeking asylum in the UK was considered to be traitorous. The Home Office did not expressly accept this risk existed. Nevertheless, the suspension on removals to Zimbabwe was maintained until November 2004.

After the Home Office resumed forced removals in 2004, reports began to come through that those removed were targeted on their arrival at Harare. By the summer of 2005, a number of

ILPA information service

funded by JRCT

www.ilpa.org.uk/infoservice.html

Steve Symonds

ILPA legal officer

020 7490 1553

[steve.symonds](mailto:steve.symonds@ilpa.org.uk)

[@ilpa.org.uk](mailto:steve.symonds@ilpa.org.uk)

Immigration Law Practitioners' Association

www.ilpa.org.uk

T 020 7251 8383

F 020 7251 8384

Zimbabweans had sought rulings from the High Court that they should not be removed. In July 2005, the suspension was effectively reinstated. However, the Home Office intended that this should only be for a short period until a court ruling on the issue of removals to Zimbabwe was given.

In order that evidence could be heard and considered in detail, it was decided that the Tribunal would arrange a hearing and give a country guidance ruling on Zimbabwe. The High Court, therefore, stayed the cases before it. In due course, AA's appeal was identified as suitable for the Tribunal to give a decision on the general question of whether it was safe to remove someone to Zimbabwe.

In October 2005, the Tribunal allowed AA's appeal; and found that it was not safe to forcibly remove anyone to Zimbabwe who had claimed asylum in the UK. The Home Office appealed, and in April 2006 the Court of Appeal sent the case back to the Tribunal. In August 2006, a new panel of the Tribunal came to the opposite conclusion as the first Tribunal. The Home Office immediately announced that it would resume removals. However, AA was granted permission to appeal to the Court of Appeal, and the suspension on removals continued.

A copy of the latest Court of Appeal judgment is available at <http://www.bailii.org/ew/cases/EWCA/Civ/2007/149.html>

6th March 2007