



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: PA/04179/2017

THE IMMIGRATION ACTS

Heard at Columbus House, Newport  
On 26 February 2018

Decision & Reasons Promulgated  
On 20 March 2018

Before

DEPUTY UPPER TRIBUNAL JUDGE MCGEACHY

Between

MSM

(ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr O James, of Counsel, instructed by Asylum Justice  
For the Respondent: Mr I Richards, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant, a citizen of the DRC appeals with permission against a decision of Judge of the First-tier Tribunal Fowell who in a determination promulgated on 10 July 2017 dismissed his appeal against a decision of the Secretary of State to refuse asylum.
2. The appellant had claimed that he had been politically active in the opposition UDPS Party in the Congo and had then fled to Zimbabwe. He claimed that while he was there a meeting which he had attended was raided by the CIO and he had therefore decided to leave Zimbabwe and come to Britain and claim asylum. His appeal was

dismissed by Judge Fowell who found that his claim was not credible, stating that it was not credible that the CIO of the DRC would make a cross-border raid to attack the meeting at which the appellant had been injured.

3. The grounds of appeal argued that the judge had misunderstood the appellant's evidence. The appellant had not said that it was the CIO of the DRC that had attacked the meeting at which he was injured but the Zimbabwean CIO.
4. Mr Richards accepted that this was a fundamental error which went to the heart of the judge's decision and therefore it was appropriate that the determination should be set aside.
5. I agree that this is a fundamental error of fact and I therefore set aside the decision of the First-tier Judge.

**Notice of Decision**

This determination is set aside.

**Direction**

The appeal will proceed to a hearing afresh on all issues in the First-tier.

Signed:

Date: 17 March 2018



Deputy Upper Tribunal Judge McGeachy