



IAC-AH-AL-V1

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

Appeal Number: AA/01076/2013

THE IMMIGRATION ACTS

Heard at Field House

On 13th June 2013

**Determination
Promulgated**

On 27th June 2013

Before

UPPER TRIBUNAL JUDGE RENTON

Between

**O M F F
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr M Mullins, Counsel instructed by Gillman-Smith Lee Solicitors

For the Respondent: Mr C Avery, Home Office Presenting Officer

DETERMINATION AND REASONS

Introduction

1. The Appellant is a male citizen of Egypt born on 4th August 1962. He arrived in the UK on 10th July 2012 when he was given leave to enter as a visitor. On 7th January 2013 the Appellant applied for asylum. That application was refused for the reasons given in the Respondent's letter of 25th January 2013. The Appellant appealed, and his appeal was heard by Judge of the First-tier Tribunal D J Baker (the Judge) sitting at Hatton Cross on 4th April 2013. She decided to dismiss the appeal on asylum, humanitarian protection, and human rights grounds for the reasons given in her Determination of 8th April 2013. The Appellant sought leave to appeal that decision, and on 30th April 2013 such permission was granted.

Error of Law

2. I must first decide if the decision of the Judge contained an error on a point of law so that it should be set aside. The Appellant had applied for asylum on the basis that he was a Coptic Christian who for that reason had been suspended from his employment at a bank. The Judge dismissed the appeal because although she found that the Appellant had been accused of fraud at the bank and had been suspended and later dismissed from his employment; and also that his family assets had been temporarily frozen and his home searched and his mother-in-law arrested and questioned, the Judge was not satisfied that the remainder of the Appellant's account was credible. The Appellant was therefore only at risk of prosecution, not persecution, and discrimination on return, and that he would not be denied a fair trial. In reaching that conclusion, the Judge considered two expert reports, one from Shaheryar Gill, and the other from Mariz Tadros. The Judge preferred the former.
3. At the hearing I heard submissions from both parties. Mr Mullins referred to his skeleton argument and submitted that the Judge had erred in law by giving insufficient reasons for her rejection of the report of Dr Tadros. The Judge had rejected that report for the reasons given in paragraph 68 of the Determination. There the Judge had commented that Dr Tadros had not previously given evidence as an expert to a Tribunal, and that the report was brief and not comprehensively sourced. The expert had relied upon an assumption that the account of the Appellant and his mother-in-law was accurate.
4. Mr Mullins argued that these reasons were insufficient. Dr Tadros' previous experience as an expert witness was irrelevant. The report was not brief, consisting of some fifteen pages, and was properly sourced.
5. In response, Mr Avery submitted that it was significant that the expert lacked experience of providing the Tribunal with an expert report. The Judge had attached to the report the weight which she thought appropriate.
6. I find that the Judge erred in law in her decision to attach limited weight to Dr Tadros' assessment of the current situation in Egypt and the risk on return to the Appellant. This is because her reasons for taking that

decision are insufficient. The experience of Dr Tadros in acting as an expert witness is mostly irrelevant. What is more relevant is Dr Tadros' credentials as an expert. These were given in the report and are manifestly sufficient. I have read the report in question and find that it cannot be described as short. It deals with the issues that the expert was asked to comment upon. It is also properly sourced.

7. The report of Dr Tadros is relevant to the issue of the Appellant's credibility and of the risk on return to the Appellant. I therefore set aside the decision of the Judge. I did not proceed to remake that decision because in those circumstances none of the findings of fact made by the Judge can be preserved. They will have to be made again and for that purpose I remit the appeal to the First-tier Tribunal in accordance with paragraph 7.2 of the Practice Statements. The Resident Judge at the hearing centre where the appeal is re-heard will make directions for that hearing.

Decision

The making of the decision of the First-tier Tribunal did involve the making of an error on a point of law.

I set aside the decision.

The appeal is remitted to be re-heard in the First-tier Tribunal.

Anonymity

The First-tier Tribunal made an order pursuant to Rule 45(4)(i) of the Asylum and Immigration Tribunal (Procedure) Rules 2005. I continue that order pursuant to Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008.

Signed

Date

Upper Tribunal Judge Renton

Approval for Promulgation

Name of Upper Tribunal Judge issuing approval:	Mr N W Renton
Appellant's Name:	Osama Moumir Fahmy Faragalla
Case Number:	AA/01076/2013

Oral determination (please indicate)

I approve the attached Determination for promulgation

Name:

Date:

Amendments that require further action by Promulgation section:

Change of address:

Rep:

Appellant:

Other Information: