



**The Upper Tribunal  
(Immigration and Asylum Chamber)**  
AA/12037/2015

Appeal Number:

**THE IMMIGRATION ACTS**

**Heard at Manchester  
On 18<sup>th</sup> April 2017**

**Decision & Reasons Promulgated  
On 10<sup>th</sup> May 2017**

**Before**

**DEPUTY JUDGE OF THE UPPER TRIBUNAL FARRELLY**

**Between**

**H.S.  
(ANONYMITY DIRECTION MADE)**

Appellant

**And**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr.Read, Counsel, instructed by Lei Dat and Baig, Solicitors.

For the Respondent: Mr.McVeety, Home Office Presenting Officer.

**DECISION AND REASONS**

**Introduction**

1. The appellant made a claim to protection on the basis he would be at risk if returned to Egypt because of his Nubian ethnicity. He also claimed that a political opinion would be imputed because of the belief he was in the Muslim Brotherhood.

2. He said that his father had owned a substantial property in Cairo. However in 2003 an Arab official at the Council wanted to buy what was then his house at a low price. When the appellant refused he was threatened with a tax demand. He subsequently received a substantial demand. Eventually, in 2005 he reluctantly agreed to sell the house at a significant discount and was given inferior alternative accommodation.
3. Because of the way Nubians were treated he did not feel able to complain. However, following the uprising of 2011 he felt more confident and did lodge a complaint. Instead of this being acted upon the appellant found himself arrested for several days during which time he was mistreated. He then referred to a subsequent detention the next year of 45 days, followed by a further arrest in 2013. Although he was not a member of the Muslim Brotherhood it was suggested to him he supported them. When he was released he decided to leave and came to the United Kingdom in October 2014. In March 2015 he made his claim for protection.
4. The respondent refused his claim. It was accepted that as a Nubian he faced discrimination and harassment. However, the respondent found this did not reach the level of persecution. His account of a corrupt official wanting his home at a discount was accepted given the country information on land acquisition. It was also accepted that he may have felt more confident in 2011 to complain and the country information indicated there were widespread arrests around this time. It was accepted he would be targeted for complaining about an official but the respondent felt he had embellished upon his account in relation to the subsequent detentions.
5. The respondent saw no risk on the basis of any association with the Muslim brotherhood.
6. The respondent highlighted his delay in claiming and concluded with the passage of time he would not be at risk on return.

#### The First tier Tribunal

7. His appeal was heard by First-tier Tribunal Judge Parker and was dismissed. The judge referred to the acceptance that the appellant's property was taken by a corrupt official and that he was arrested six years later when he made a complaint. His claims in relation to subsequent detentions and of perceived membership of the Muslim Brotherhood were not accepted. There was an expert report before the judge on the treatment of Nubians as well as a medical report in relation to the scarring which the appellant attributed to his time in detention.

8. At paragraph 24 the judge referred to the claim that the appellant would be perceived as a member of the Muslim brotherhood. At paragraph 25 the judge referred to the expert's report which said that if the Egyptian police suspected someone was in the Muslim brotherhood they would be detained on arrival at the airport where a watchlist was maintained. However, the judge reasoned that as the appellant was never in the Muslim Brotherhood; had not engaged in any activities likely to give the government reason to suspect he was a member; he would not be on this list. The judge rejected the appellant's claim that the police suspected he was a member and found he was targeted because of his complaint about the official taking his house. The judge could see no reason why he would be targeted or perceived to be a member of the Muslim brotherhood.
9. The judge referred to the respondent's view that the appellant had embellished his account albeit it was largely accepted. Regarding the burn marks the judge pointed out this was not referred to at screening and at screening he was asked if anything happened during his third period of claimed detention and he said not. In his asylum interview he referred to being tortured and beaten. At paragraph 35 the judge found the appellant would not be of interest to the authorities on return as he had not been involved in the Muslim Brotherhood and would not be on a watch list. The judge acknowledged he faced discrimination and harassment because of his ethnicity but that this was not sufficient to amount to persecution. The judge found with the passage of time the complaint made about his property being taken would not place him at risk now.

### The Upper Tribunal

10. In seeking permission to appeal it was contended that the judge erred in concluding because the appellant was not a member of the Muslim Brotherhood there would be no perception that he was. At paragraph 38 of the appellant's statement he confirmed he had never been a member of the Brotherhood but that false accusations were made so the authorities would have an excuse to arrest him for complaining about the land acquisition. However, he said that having been accused of membership he would always be on the wanted list and this could be used by the authorities.
11. Permission to appeal was granted on the basis it was arguable the judge failed to reach a conclusion on whether a false allegation of membership of the Muslim Brotherhood would result in adverse interest if returned. It was also arguable that the judge failed to engage with photographic evidence about scarring.

12. The respondent lodged a rule 24 response referring to paragraph 15 of the decision. The judge records the appellant's claim the police accused him of membership of the Brotherhood but that he was not a member and had nothing to do with them. The judge at paragraph 24 concluded he would not be detained at the airport as he was never involved. It was submitted that the grounds amounted to a disagreement with the conclusions.
13. At hearing, Mr. Reed argued that the judge failed to make adequate findings as to the effect of the accusation of membership of the Brotherhood and whether it was false. He referred to paragraph 20 of the decision where the judge noted the expertise of the expert making the report had not been challenged. However the judge discounted the expert evidence that the appellant would still be targeted. He also submitted the judge failed to make any finding as to the risk purely on account of the appellant's ethnicity. He pointed out that the authorities had not protected the appellant in relation to the appropriated property.
14. In response, Mr McVeety made the point that the expert report was premised upon the appellant being suspected of membership of the Brotherhood. The judge rejected the appellant's claim of a risk in relation to the Muslim Brotherhood and found that the matter essentially was a dispute over land. He submitted that the expert report did not address why the police would conclude the appellant was a member.

#### Consideration.

15. It has been accepted by the respondent that as a Nubian he would face discrimination and harassment. It was accepted that if he had a valuable property a corrupt Arab official could take advantage of his vulnerable position. This was the background to the events claim. It was also accepted that the appellant may have felt more confident about complaining in 2011 but this was displaced. Thereafter, the judge found the appellant embellished his claim in relation to subsequent episodes.
16. The principal challenge to the decision is how the judge dealt with the appellant's claim he was at risk because the police falsely accused him of being in the Muslim Brotherhood. However, the appellant's account was that this was simply a ruse to detain him over his complaint about the property. The judge makes the point if he was not genuinely suspected of membership then he would not be on a watch list in relation to the Muslim Brotherhood. The judge covers this at paragraphs 24 and 25. The judge dealt with the injuries complained of at paragraph 37. The judge also referred to inconsistencies about the subsequent claimed detentions.

17. Having considered the decision in its entirety it is my conclusion the judge correctly dealt with the claim that the appellant would be at risk due to an association with the Muslim Brotherhood. The judge engaged with the expert report which the judge found proceeded on a false premise. The expert had assumed the risk on the basis he was involved in the Brotherhood or believed to be.
18. In the decision the judge dealt with the appellant's ethnicity and acknowledged the difficulties he would face because of this. However, this was not felt to amount to persecution. The judge dealt with the index dispute over property and it was noted that the property had not simply been taken but there had been some negotiation. The judge referred to the passage of time since. The judge also dealt with question of relocation at paragraph 34. I find the judge has dealt adequately with all of the issues arising and has given reasons for the conclusions arrived at. I find no material error of law established.

Decision.

The decision of First-tier tribunal Judge Parker dismissing the appeal shall stand. No material error of law has been established.

Deputy Judge Farrelly

6<sup>th</sup> May 2017