



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

Appeal Number: PA/05029/2018

THE IMMIGRATION ACTS

**Heard at Field House
On 4th December 2018**

**Decision & Reasons
Promulgated
On 27th December 2018**

Before

DEPUTY UPPER TRIBUNAL JUDGE ROBERTS

Between

**MR M.S.A.A.H.
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms Cronin, Counsel

For the Respondent: Mr Kotas, Senior Home Office Presenting Officer

Anonymity

Rule 14: The Tribunal Procedure (Upper Tribunal) Rules 2008

An anonymity direction was made by the First-tier Tribunal. As a protection claim, it is appropriate to continue that direction.

DECISION AND REASONS

1. The Appellant, a national of Egypt (born 18th November 1986) appeals with permission against the decision of a First-tier Tribunal (Judge Devittie) dismissing his appeal against the Respondent's decision of 9th April 2018 refusing his protection claim.
2. Permission to appeal was granted by First-tier Tribunal Judge Boyes in the following terms:

“The grounds assert that the judgment is far too short and consequently does not deal with any of the detail of this appellant's claims. The grounds are arguable. To dismiss an asylum claim in 10 paragraphs arguably does not do justice to the depth and breadth of the appellant's arguments. There is no mention of HP, Article 2 or 3 or 8. Permission to appeal is granted.”

3. Thus the matter comes before me to determine whether the decision of the First-tier Tribunal contains such error that it requires it to be set aside and remade.
4. A Rule 24 response was served by the Respondent and that response says the following:

“The Respondent does not oppose the Appellant's application for permission to appeal and invites the Tribunal to remit the case to the First-tier Tribunal in order for a full assessment of the Appellant's case and the risk on return to be made.”

Consideration

5. I begin my consideration by setting out the background to the Appellant's claim. In summary he claims he would face persecution in Egypt on account of his membership of the Muslim Brotherhood. He claims he joined that organisation in 2010, assisting in meetings and leading demonstrations. His claim is that he was arrested and detained by the authorities in July 2012 and that he remained on the run from the authorities from 2013 to 2016. His brother was detained by the police in 2014 for one month.
6. The last demonstration he attended was in Egypt was in March 2016. By May 2016 he had arrived in the United Kingdom having travelled by sea. He made no claim to asylum until July 2017 and claimed he had attended a demonstration in London in August 2016.
7. The FtTJ dismissed the appeal finding that he disbelieved much of the Appellant's claim; although he was prepared to accept that the Appellant was a member of the Muslim Brotherhood.

8. Having given careful consideration to the decision as a whole, the Grounds of Appeal and the Rule 24 response served by the Respondent, I am satisfied that the decision of Judge Devittie contains a number of omissions and errors such as to render it unsafe.
9. The first and overarching difficulty is that much of the decision appears to be a recitation of the Appellant's claim and the Respondent's refusal letter. The judge spends several lengthy paragraphs simply reciting this evidence together with a note of the documentary/background evidence produced.
10. When it comes to assessing the evidence, the judge's analysis and fact-finding amounts to twenty or so short sentences [8 (1) to (3)]. The judge describes as unsatisfactory features, matters which he sets out as undermining the Appellant's claim. Nowhere do I see that he has grappled with the relevant parts of the evidence which was before him, including the Appellant's witness statement; letters from two lawyers in Egypt corroborating the Appellant's account of being wanted by the authorities; an arrest warrant, and a letter of support from the Appellant's father together with court documents pertaining to the Appellant's brother.
11. It is trite law to say that an Appellant is entitled to have his case considered fully. It may be that the evidence, when properly evaluated, carries little or no weight. However the point is that the Appellant is entitled to have it considered. I find it appears from a reading of this determination that the judge has failed to give the evidence appropriate consideration. That is a material error and is especially so when, as in this case, credibility is in issue. I find therefore that the decision must be set aside and remade.
12. Ms Cronin asked that I preserve the finding made by Judge Devittie in which he said that he was prepared to accept that the Appellant was a member of the Muslim Brotherhood [8(1)]. I declined to do so. It is a finding made without any proper reason being given for the making of it. This issue forms the core of the Appellant's claim and it is a matter which the Respondent disputes. I informed the parties at the hearing that the decision would be set aside in its entirety.
13. Because I find that it has not been demonstrated that the Appellant has had a fair hearing, I am satisfied that the appropriate course is for this matter to be remitted to the First-tier Tribunal for a fresh hearing. This will be before a judge other than Judge Devittie.

Notice of Decision

The decision of Judge Devittie promulgated on 24th August 2018 is set aside for material error. The matter will be remitted to the First-tier Tribunal for the decision to be remade in the First-tier Tribunal. Nothing is preserved from the original hearing. The fresh hearing should be before a judge other than Judge Devittie.

Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008

Unless and until a Tribunal or court directs otherwise, the Appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify him or any member of his family. This direction applies both to the Appellant and to the Respondent. Failure to comply with this direction could lead to contempt of court proceedings.

Signed C E Roberts

Date 14 December 2018

Deputy Upper Tribunal Judge Roberts