



**Upper Tribunal
(Immigration and Asylum Chamber)
PA/00162/2019**

Appeal Number:

THE IMMIGRATION ACTS

Heard at Field House

**Decision & Reasons
Promulgated**

On 25 June 2019

On 16 July 2019

Before

DEPUTY UPPER TRIBUNAL JUDGE ESHUN

Between

M A H

(ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms Grace Capel, Counsel

For the Respondent: Mr C Avery, HOPO

DECISION ON ERROR OF LAW

1. The appellant has been granted permission to appeal the decision of First-tier Tribunal Judge O'Garro dismissing his appeal against the decision of the respondent to refuse him asylum or humanitarian protection in the UK.
2. The appellant is a citizen of Egypt, who claims his date of birth is 1 January 2001. He entered the UK clandestinely in October/November 2016. He claimed asylum on 25 October 2016 but claimed asylum again on 7 February 2017 under the name of M. H. date of birth 11 November 2000.
3. He claimed that his father was sent to prison in 2014 and died in prison subsequently. He claimed that the authorities, that is the police, were

looking for him because of his father's association with the Muslim Brotherhood. That was why he left Egypt to come to the UK via Italy to claim asylum.

4. Both parties agreed that the judge made errors of law for the reasons set out in the grounds of appeal upon which permission was granted by UTJ Blundell.
5. I agree with UTJ Blundell that the judge arguably misunderstood the ratio of **TK (Burundi) [2009] EWCA Civ 40** and that she required corroboration of the appellant's account. This is with reference to ground 1 where it is said that the judge concluded that there was no reliable evidence to support the appellant's claim that his father was a member or supporter of the Muslim Brotherhood and was arrested or imprisoned as a result. It was argued that that finding was determinative of the appeal, leading to a finding that the appellant was not a witness of truth. In making that finding the judge gave no consideration at all to the appellant's own account of past events, given during his substantive Home Office interview or his witness statements. There was also a report by Professor Ambrust submitted in support of the appellant's appeal which the judge failed to take into consideration. There was also a number of documents from Egypt to corroborate the appellant's account of past events which the judge failed to take account of.
6. I further accept that the judge erred in conducting her own research after the hearing, since the background material she relied upon throughout the decision was not provided or cited by the respondent.
7. In the light of the above, the judge's decision is materially flawed and cannot stand.
8. The appellant's appeal is remitted to Hatton Cross for rehearing by a First-tier Tribunal Judge other than FtTJ O'Garro.

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 their 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

Date: 8 July 2019

Deputy Upper Tribunal Judge Eshun