



**Upper Tribunal  
(Immigration and Asylum Chamber)** Appeal Number: PA/02732/2017

**THE IMMIGRATION ACTS**

**Heard at Glasgow  
on 22<sup>nd</sup> February 2019**

**Decision & Reasons  
Promulgated  
On 18<sup>th</sup> March 2019**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE DEANS**

**Between**

**GS  
(ANONYMITY DIRECTION MADE)**

Appellant

**and**

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

Respondent

For the Appellant: Mr S Winter, Advocate, instructed by Latta & Co,  
Solicitors

For the Respondent: Mr M Matthews, Senior Home Office Presenting  
Officer

**DECISION AND REASONS**

1. This is an appeal against a decision by Judge of the First-tier Tribunal Sorrell dismissing an appeal on protection and human rights grounds.
2. The appellant is a national of Egypt. His son, now aged nineteen, is a dependant on his appeal. The appellant and his

son maintain that in June 2016 they were each seriously assaulted by the security forces after entering El Tahrir Square when a protest was taking place. The appellant was detained and released subject to threats of further harm to him and his family if he did not provide information about the Muslim Brotherhood. In addition, the appellant's son claims to be at risk of harm on the basis of his sexuality.

3. The Judge of the First-tier Tribunal did not find the evidence on which the protection claim was based to be credible. So far as the appellant's son was concerned, she considered that it was for him to seek protection on the grounds of his sexuality by making a claim on his own account.
4. Permission to appeal was granted by the First-tier Tribunal on only one ground, which was that the judge had arguably erred by not properly considering the issue of the appellant's son's sexuality and not taking this into account in making an Article 8 assessment for the appellant. The application was renewed before the Upper Tribunal, which granted permission on the remaining grounds in the application. These included whether the judge gave proper consideration to the appellants as vulnerable witnesses, whether the judge erred in her consideration of expert reports, including medico-legal reports, and whether the judge erred in finding aspects of the evidence for the appellant implausible.
5. At the hearing before me the parties were agreed that the appeal should be remitted to the First-tier Tribunal for a fresh hearing. Mr Matthews explained that there were two issues arising from the judge's decision which were of particular concern to the respondent. The first of these was that the judge described the medico-legal reports for the appellant and his son as not referring to the Istanbul Protocol, but this was incorrect. The second was the lack of findings relating to the sexuality of the appellant's son.
6. I indicated that I would remit the appeal with the consent of the parties. In doing so, however, I drew the attention of the parties to paragraph 38 of the judge's decision, where she stated that the medico-legal reports had been prepared by doctors who were not shown medical correspondence from a consultant orthopaedic surgeon in the UK appearing to relate to the appellants' son. I suggested that if the judge's observation as to this alleged omission was correct, then it ought to be addressed before any further hearing.
7. I am satisfied that the Judge of the First-tier Tribunal erred in law for the reasons high-lighted by Mr Matthews in his submission and the decision should be set aside. The errors affect the

credibility findings made by the First-tier Tribunal. In view of the extent of the fact-finding required, in accordance with paragraph 7.2(b) of the Practice Statement, the appeal is remitted to the First-tier Tribunal for a fresh hearing before a differently constituted Tribunal with no findings preserved.

### **Conclusions**

8. The making of the decision of the First-tier Tribunal involved the making of an error on a point of law.
9. The decision is set aside.
10. The appeal is remitted to the First-tier Tribunal for hearing before a differently constituted Tribunal with no findings preserved.

### **Anonymity**

The First-tier Tribunal did not make a direction for anonymity. In order to preserve the positions of the parties until the appeal is decided, I consider that such a direction should be made in the following terms. Unless or until a court or tribunal directs otherwise, no report of these proceedings shall directly or indirectly identify the appellant or any member of his family. This direction applies both to the appellant and the respondent. Failure to comply with the direction may give rise to contempt of court proceedings.

M E Deans  
Deputy Upper Tribunal Judge

13<sup>th</sup> March 2019