



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

Appeal Number: PA/03215/2019

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 23<sup>rd</sup> August 2019**

**Decision & Reasons  
Promulgated  
On 4<sup>th</sup> September 2019**

**Before**

**UPPER TRIBUNAL JUDGE MARTIN**

**Between**

**ASSM  
(ANONYMITY DIRECTION MADE)**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: Miss M Bayoumi (instructed by Ferial Solicitors)  
For the Respondent: Mr S Walker (Senior Home Office Presenting Officer)

**DECISION AND REASONS**

1. This is an appeal to the Upper Tribunal by the appellant in relation to a Decision and Reasons of Judge N M K Lawrence promulgated on 23<sup>rd</sup> May 2019. The Decision followed a hearing at Hatton Cross on 9<sup>th</sup> May when,

as now, the appellant was represented by Miss Bayoumi. The appellant's case is that he is an Egyptian national born in 1987. He came to the UK, initially as a visitor, but then made a protection claim which the Secretary of State refused on 22<sup>nd</sup> March 2019. It was the appeal against that decision which came before Judge Lawrence.

2. At the substantive hearing the judge had the benefit of a large bundle of documents, submitted on the appellant's behalf, running to some 451 pages and included in that bundle was an expert's report provided by Dr Fatah, itself very lengthy.
3. The appellant's claim was that he is the son of a prominent member of the Muslim Brotherhood. So much was accepted by the Secretary of State, as was the fact that his father had been previously detained and by the time of the hearing had been prosecuted, convicted and imprisoned. That latter fact seems to have escaped the judge's notice, despite it being referred to in the expert's report. The expert was asked to deal with a number of matters:- whether the appellant would be at risk on account of his connection with his father, whether he would be at risk on account of his own activities either in Egypt or sur place activities in the UK and whether he would be perceived as a member or supporter of the Muslim Brotherhood. The judge found against the appellant on all matters.
4. In her submissions Miss Bayoumi pointed to the part of the expert's report which the judge failed to take into account, particularly the numerous references to harm that has been suffered by family members of prominent members of the Muslim Brotherhood. The Judge, in dealing with that issue found it to be purely coincidence that family members had been arrested and detained and that that was on account of their own activities rather than those of their parent. That is not what the expert said and on numerous occasions referred to the reason being their links to their parent. Furthermore, in one part of the report the expert concludes that the appellant would be highly likely to be arrested at the airport on his return. I therefore accept, as does Mr Walker on behalf of the Secretary of State, that the judge misunderstood or did not properly taken into account the findings of the expert in the report and in doing so made a material error of law, the expert report being a fundamental part of the evidence in the case asserted by the appellant.
5. There are a significant number of findings to be made in this case. The credibility of who the appellant is is not one of them, that is accepted and the situation of his father is also accepted. What is to be decided is whether the appellant himself carried out any activities in Egypt; whether that would put him at risk; whether he would be at risk, even if he has done nothing, on account of his father; whether he has carried out sur place activities in the UK and if so whether that would put him at risk, and finally, would he be perceived today by the Egyptian authorities as a member or supporter of the Muslim Brotherhood and if so would he be at risk?

6. The expertise of the expert appears to have been accepted before the First-tier Tribunal and therefore ought to have been engaged with properly and findings made on the contents of that report.

**Notice of Decision**

7. The judgment of the First-tier Tribunal is set aside in its entirety and the matter remitted to the First-tier Tribunal for a full rehearing. It is likely to take a considerable portion of the day given the amount of evidence, the fact that there are witnesses in addition to the appellant. An Arabic interpreter will be required. The appropriate hearing centre is Hatton Cross.

**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

Date 28 August 2019

Upper Tribunal Judge Martin