



Upper Tribunal

**(Immigration and Asylum Chamber)
PA/03815/2019 (P)**

Appeal Number:

THE IMMIGRATION ACTS

Decided under rule 34 (P)

**Decision & Reasons
Promulgated**

On 8 September 2020

On 11 September 2020

Before

UPPER TRIBUNAL JUDGE KEKIĆ

Between

[M G Z]

(ANONYMITY DIRECTION MADE)

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

DECISION AND REASONS

Representation (by way of written submissions)

For the appellant: Bankfield Heath Solicitors

For the respondent: None received

Background

1. This appeal comes before me following the grant of permission to appeal to the appellant by First-tier Tribunal Judge Bristow on 29 January 2020 against the determination of First-tier Tribunal Judges A K Hussain and Saffer, promulgated on 29 November 2019 following a hearing at Bradford on 25 September 2019.
2. The appellant is an Egyptian national whose assessed date of birth is 1 January 1998. He claims that he would be at risk on return to Egypt because of his family's involvement in a blood feud with another family over a land dispute. He claims that the feud began in October 2015 but that he was not involved in it and only knew what he had been told by his father. In early 2016 he claims to have been sent to live with an aunt in Syria for some two months following which he returned home. Due to the escalation of the feud because his paternal uncle had killed a member of the feuding family, the appellant was sent to Europe by his family. He claims to have travelled through Italy, France and Belgium, arriving here in March 2017.
3. The appellant's claim was refused by the respondent on 5 April 2019 and his appeal was dismissed by the First-tier Tribunal panel which found that his evidence was not credible, that there was no extant feud, that he had failed to claim asylum in the countries he had passed through and that he had initially falsely claimed to be a Syrian minor.
4. No article 8 claim was pursued and it was conceded that the Refugee Convention could not be invoked due to the absence of a convention reason.
5. Permission to appeal was granted on the basis that the panel arguably erred in failing to consider the appellant's youth at the time of claimed events when assessing his credibility. It is also argued that the panel made factual errors which further undermined its credibility assessment.

Covid-19 crisis: preliminary matters

6. The matter would normally then have been listed for a hearing at Field House but due to the Covid-19 pandemic and need to take precautions against its spread, this did not happen and instead directions were sent to the parties on 28 April 2020. They were asked to present any objections to the matter being dealt with on the papers and to make any further submissions on the error of law issue within certain time limits.
7. The Tribunal has received written submissions from the appellant but no reply from the respondent has been received. I

am satisfied that the directions were properly served on the Secretary of State. I now consider the matter.

8. In doing so I have regard to the Tribunal Procedure (Upper Tribunal) Rules 2008 (the UT Rules), the judgment of Osborn v The Parole Board [2013] UKSC 61, the Presidential Guidance Note No 1 2020: Arrangements during the Covid-19 pandemic (PGN) and the Senior President's Pilot Practice Direction (PPD). I have regard to the overriding objective which is defined in rule 2 of the Tribunal Procedure (Upper Tribunal) Rules 2008 as being "*to enable the Upper Tribunal to deal with cases fairly and justly*". To this end I have considered that dealing with a case fairly and justly includes: dealing with it in ways that are proportionate to the importance of the case, the complexity of the issues, etc; avoiding unnecessary formality and seeking flexibility in the proceedings; ensuring, so far as practicable, that the parties are able to participate fully in the proceedings; using any special expertise of the Upper Tribunal effectively; and avoiding delay, so far as compatible with proper consideration of the issues (Rule 2(2) UT rules and PGN:5).
9. I have had regard to the submissions made and to all the evidence before me before deciding how to proceed. I take the view that a full account of the facts are set out in those papers, that the arguments for and against the appellant have been clearly set out and that the issues to be decided are narrow. There are no matters arising from the papers which would require clarification and so an oral hearing would not be needed for that purpose. I have regard to the importance of the matter to the appellant and consider that a speedy determination of this matter is in his best interests. I note that the appellant's submissions for an oral (remote) hearing are based on general principles and what the 'normal' procedure is. No specific reasons are put forward as to why the matter could not be properly decided on the papers in these abnormal times and no good reason is offered as to how the appellant would be disadvantaged by such a process. I am satisfied that I am able to fairly and justly deal with this matter on the papers before me and I now proceed to do so.

Submissions and grounds

10. The appellant's written submissions were emailed to the Tribunal and to the respondent on 11 May 2020. There has been no response, as far as I am aware, from the respondent as of today to either the Upper Tribunal's directions or to the appellant's submissions.
11. The appellant relies on his grounds and argues that although the Tribunal was aware of the appellant's limited involvement with

the feud, it failed to have regard to his age when assessing his credibility and that, therefore, the conclusions are unsafe. It is maintained that had the Tribunal reminded itself that the appellant had been a minor at the time of the events, even on his assessed age, it may have taken a different view on credibility.

12. Secondly, it is argued that the panel made factual errors which further undermine its findings.
13. For this, I refer back to the grounds as no details are provided in the submissions. It is maintained there that the Tribunal wrongly found that the appellant had accepted that he had claimed to be Syrian on entry and that he had only admitted his true nationality when confronted by the authorities. It is argued that the appellant never made such a concession. Reference is made to the asylum interview record where the appellant said that he had claimed to be Egyptian but had lived in Syria.
14. The other factual error is said to be the Tribunal's finding that the appellant had withdrawn his claim to be a minor following the local authority's assessment of his age. It is argued that in fact the appellant had challenged the local authority's decision and maintained his initial date of birth at the hearing before the Tribunal. It is maintained that these errors show that anxious scrutiny had not been given to the claim.

Discussion and conclusions

15. I have considered all the evidence, the grounds for permission and the submissions made by the appellant.
16. The panel is criticised for its credibility assessment. Much is made of the failure of the panel to refer to the appellant's age at the time of the shooting by his paternal uncle and it is argued that had the Tribunal had regard to the appellant's youth it would have reached a different conclusion. The panel was clearly aware of the dispute over the appellant's date of birth. This is referred to in the first paragraph of the decision. The appellant, according to his assessed date of birth, was just a few months short of being 22 years old at the date of the hearing. That age assessment was challenged on judicial review but the claim was refused. A copy of the decision has not been adduced.
17. It is maintained in ground 1 that the appellant's age at the time of the "events" should have been taken into account when the Tribunal assessed whether or not there had been a feud. The "events" referred to are not identified but would appear to relate to one incident when the appellant's paternal uncle was alleged to have killed a member of the opposing family. It is difficult to

see, however, how having regard to the appellant's age would have made any material difference to the credibility assessment in that respect for the following reasons. First, the panel considered the account at face value, and accepted that the appellant was not present at the time of the killing and that he would therefore not have been able to provide a detailed account of what had transpired (at 23). As that had been accepted, assuming the account were true, consideration of the appellant's age (17 years at that time) would have had no material impact on that conclusion. Secondly, it was also accepted that the appellant had explained the apparent inconsistency over how the killing took place so that the panel no longer considered such a discrepancy existed (at 24-25). Third, no adverse finding is made by the panel over the appellant's changes in evidence about when the feud commenced or when he left Egypt for Syria.

18. The most serious problem with the appellant's account and one that has been omitted completely from the grounds is that there is evidence that the appellant was in Italy some ten months before he even claimed to have left Egypt for Europe. That conflict remains an enormous hurdle to overcome whichever variation of his account is taken into account, including that given after full consultation with his legal representatives (in his statement and chronology). His age can have nothing to do with that as he would have been over 18 at the time he claimed to have left Egypt in April 2016 (witness statement at paragraph 9; correcting earlier accounts). There is indisputable evidence from the Italian authorities that the appellant was already in Italy in July 2015. This cannot be explained away by the appellant's youth and the grounds fail entirely to engage with this difficulty which entirely undermines the account that he was in Egypt at the time and indeed for almost a year afterwards. It was entirely open to the panel to conclude that he had fled Egypt before any feud had even commenced (on whichever version of events is taken into account).
19. The panel is also criticized for making a factual error in finding that the appellant had lied about his nationality on arrival and claimed to be a Syrian national. Contrary to what the grounds maintain, the evidence shows that the appellant did in fact make such a claim regardless of what he said later at his interview (as cited in the grounds). Had the author of the grounds taken the trouble to read through the evidence, he would have seen that in his witness statement the appellant admits to this deception. At paragraph 21 the appellant states: "*The Home Office have said that when I first arrived in the UK, I said that I was Syrian. I **acknowledge I did this***". Further, at the hearing, the Record of Proceedings shows that he was cross-examined about this and

admitted that he had lied on arrival. The panel was therefore fully entitled to make the finding it did at paragraph 35.

20. Additionally, the panel found that the appellant had changed his evidence about the whereabouts of his sister and about whether he was sent to Syria to be with her or with an aunt (at 29-30). Given that this was supposed to have happened shortly prior to his arrival in the UK when he was already an adult, and given that he spent two months with that person, the panel was entitled to find that this undermined his claim to have fled Egypt for Syria (at 30). There are also inconsistencies apparent from the appellant's interviews over his occupation in Egypt as he has claimed both to have never worked there and to have worked as a car mechanic and in a restaurant (RB: p. 7 and 26) and between his witness statement and interview over whether or not he has been in contact with his sister since he was been in the UK .
21. The panel found that the credibility of the claim to need international protection was further undermined by his failure to claim asylum in Italy, France or Belgium (at 36) and by giving false information to the Italian authorities (which he acknowledges at interview RB:32).
22. Having considered all the evidence the panel properly concluded that the appellant's evidence was untruthful and that the appeal had to fail.

Decision

23. The decision of the First-tier Tribunal does not contain any errors of law and it is upheld. The appeal is dismissed.

Anonymity

24. I make an anonymity order pursuant to Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008.
25. Unless the Upper Tribunal or a court directs otherwise, no reports of these proceedings of any form of publication thereof shall directly or indirectly identify the appellant. This direction applies to, amongst others, the appellant and the respondent. Any failure to comply with this direction could give rise to contempt of court proceedings.

Signed

R. Kekić
Upper Tribunal Judge

Date: 8 September 2020