



**Upper Tribunal  
(Immigration and Asylum Chamber) Appeal Number: PA/06505/2019 (P)**

**THE IMMIGRATION ACTS**

**Decided Under Rule 34  
On 16 May 2020**

**Decision & Reasons Promulgated  
On 21 May 2020**

**Before**

**UPPER TRIBUNAL JUDGE KEBEDE**

**Between**

**AHMED [M]**

Appellant

**and**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**DECISION AND REASONS**

1. This decision has been made on the papers, under Rule 34 of The Tribunal Procedure (Upper Tribunal) Rules 2008, further to directions issued by Upper Tribunal Judge Bruce sent out on 9 April 2020.
2. The appellant is a national of Egypt whose date of birth is given as 1 January 1977. He arrived in the United Kingdom on 25 August 2018 and claimed asylum on 5 September 2018. His claim was refused on 21 June 2019.
3. The appellant claims to be at risk on return to Egypt because of his perceived support for the Muslim Brotherhood. He claims that his problems arose at a time when he was living in Saudi Arabia, following arguments with his nephew-in-law Mohamed who was a lawyer in Egypt over the transfer of money from Saudi Arabia to Egypt for a widower who was living in Egypt. The appellant agreed to assist the widower by transferring the funds, at Mohamed's request, but paid the money directly to the widower rather than through

Mohamed, resulting in Mohamed losing out on commission and so causing family arguments. The appellant later became Facebook friends with Mohamed, in June 2018, but they argued about their political beliefs when he posted and liked articles in favour of the Muslim Brotherhood and against the el-Sisi regime, contrary to Mohamed's own views. He subsequently received threats from Mohamed that he would make a case against him as being a Muslim Brotherhood supporter and terrorist and Mohamed sent him photographs of documents on Messenger showing that he had filed a case against him. He then came to the UK and fears returning to Egypt.

4. The respondent, in refusing the appellant's claim, did not accept that he was a supporter of the Muslim Brotherhood and did not accept his account of problems with Mohamed. The respondent accorded no weight to the supporting documents relied upon by the appellant and considered that he would not be at risk on return to Egypt.

5. The appellant appealed against that decision. His appeal was heard by First tier Tribunal Judge Parker on 20 November 2019. In a statement submitted in support of the appeal the appellant explained that he had since found out that the court documents for the case against him, as sent to him by Mohamed, were not in fact genuine and that there was no case against him. That made him more fearful of Mohamed as it showed how far he was willing to go to ensure that he did not return to Egypt and would be willing to do anything to get him into trouble. He feared that Mohamed was capable of getting him arrested and imprisoned due to his contacts in the government. He also feared return to Egypt because of his activities in the UK helping the Egyptian Revolutionary Council and because he had been photographed attending demonstrations in support of the Muslim Brotherhood.

6. Judge Parker did not find the appellant's account to be credible and concluded that he was at no risk on return to Egypt. He dismissed the appeal on all grounds, in a decision promulgated on 18 December 2019.

7. Permission to appeal was sought by the appellant on the grounds that the judge had made key findings on an incorrect understanding of the evidence; that he had failed to take account of relevant documents and engage with the expert evidence; and that he had failed to make findings on the appellant's sur place activities in the UK.

8. Permission was granted on 11 February 2020.

9. In light of the need to take precautions against the spread of Covid-19, the matter was not listed for a hearing and the case was reviewed by an Upper Tribunal Judge on 2 April 2020. In a Note and Directions sent out on 9 April 2020, Upper Tribunal Judge Bruce indicated that she had reached the provisional view that the question of whether the First-tier Tribunal's decision involved the making of error of law and, if so, whether the decision should be set aside, could be made without a hearing. Submissions were invited from the parties.

10. Written submissions have been received from the appellant's representatives which include an objection to the matter being dealt with on the papers under rule 34 in the event that the grounds of appeal are contested by the respondent. The respondent has not filed any submissions and there is no rule 24 response to the grant of permission. In the circumstances I see no reason why the error of law question cannot be determined without a hearing, particularly as it seems to me that the appellant's grounds of appeal are made out and that Judge Parker's decision contains various errors of law.

11. Although the judge's findings appear under a heading "Findings and Reasons" it is somewhat difficult to ascertain which parts are actual findings and which are simply summaries of the evidence. By way of example, I refer to paragraph 18, from which it is not clear whether the judge is simply repeating the appellant's evidence as to his nephew-in-law's position as a lawyer, as referred to in the document at page 355, or whether he is making a finding on the matter. The grounds assert that the judge failed to make any findings in that regard and there is merit in such an assertion given that it is far from clear whether or not he did so. There is, furthermore, merit in the assertion in the submissions from Ms Bayoumi at [8] and [9] that the judge misunderstood the basis of the appellant's claim, believing the claimed risk to have arisen from the events in 2014 rather than the Facebook arguments with Mohamed from 2018 and thus erroneously making adverse credibility findings on the delay in claiming asylum, and misunderstood the claim as to the significance of the case-file and court documents. The grounds also assert that the judge failed to consider the expert evidence. Whilst the judge refers to the report from Hugh Miles at [51], I agree that there is no proper consideration of the report in the context of an assessment of the appellant's credibility. Likewise, there is no proper assessment of the evidence produced by the appellant in regard to his sur place activities but simply cursory observations from [59] about his Facebook activities.

12. Accordingly, I find merit in the challenge in the grounds to the judge's engagement with the evidence and the adequacy of his findings on the evidence. I agree with Ms Bayoumi's submissions at [16] as to the judge's failure to undertake a holistic assessment of the evidence. The judge's findings on the evidence were clearly directly relevant to his assessment of the credibility of the appellant's account and, in the circumstances, the judge's credibility findings are simply unsustainable. I therefore also agree with Ms Bayoumi that the decision must be set aside in its entirety, with no findings preserved. The appropriate course is for the case to be remitted to the First-tier tribunal to be heard *de novo* before a different judge.

## **DECISION**

13. The making of the decision of the First-tier Tribunal involved the making of an error on a point of law and the decision is set aside. The appeal is remitted to the First-tier Tribunal pursuant to section 12(2)(b)(i) of the Tribunals, Courts

and Enforcement Act 2007 and Practice Statement 7.2(b), to be heard afresh before any judge aside from Judge Parker.

Signed: S Kebede  
Upper Tribunal Judge Kebede  
May 2020

Dated: 16