



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

Appeal Number: PA/07806/2019 (V)

**THE IMMIGRATION ACTS**

**Heard at Manchester CJC via Skype**

**Decisions & Reasons  
Promulgated**

**On 23 November 2020**

**On 10 December 2020**

**Before**

**UPPER TRIBUNAL JUDGE PLIMMER**

**Between**

**OE  
ANONYMITY DIRECTION MADE**

Appellant

**and**

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

Respondent

**Representation:**

For the appellant: Ms Bayoumi, Counsel

For the respondent: Ms Everett, Senior Home Office Presenting Officer

**DECISION AND REASONS (V)**

*Pursuant to Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 (SI2008/269) an Anonymity Order is made. Unless the Upper Tribunal or Court orders otherwise, no report of any proceedings or any form of publication thereof shall directly or indirectly identify the original Appellant. This prohibition applies to, amongst others, all parties.*

1. The appellant is a citizen of Egypt, who claims that he has a well-founded fear of persecution there for reasons relating to anti-regime activities in Egypt and the UK, in relation to activities linked to the Muslim Brotherhood ('MB') and the Freedom and Justice Party, and

- his sentence of 4 years imprisonment for MB membership after a trial in his absence in Egypt.
2. I have anonymised the appellant's name because this decision refers to his asylum claim.
  3. The appellant has appealed against a decision of the First-tier Tribunal ('FTT') Judge Myers sent on 29 May 2020 dismissing his appeal on international protection and human rights grounds. The FTT rejected the credibility of the appellant's account and concluded that his low level political activities would not in any event result in a real risk of persecution.
  4. When granting permission to appeal in a decision dated 14 August 2020, FTT Judge O'Brien considered all the grounds of appeal to be arguable. At the beginning of the hearing before me, Ms Everett conceded that the FTT decision contains errors of law for the reasons set out in the grounds of appeal, such that it must be set aside and remade by another FTT other than Judge Myers. Ms Everett was correct to make this concession. I am satisfied that the FTT has erred in law. In all the circumstances I consider it appropriate to make my decision by consent and pursuant to rule 39 of the Tribunal Procedure (Upper Tribunal) Rules 2008. For this reason I can summarise my reasons for accepting that each ground of appeal is made out.
  5. For the reasons provided in ground 1 the FTT failed to take relevant evidence into account before reaching adverse factual findings on the appellant's claim to have suffered a shoulder injury and to have been convicted in absentia at [29]. In particular, the FTT was wrong to state that the appellant only mentioned a hernia at screening interview ('SI') and not the shoulder injury when 4.1 of the SI clearly refers to this. In addition, the FTT has not taken into account that the appellant clearly referred to his conviction in his preliminary information questionnaire ('PIQ') (pg 16/19) dated 31 January 2019 and it was therefore inaccurate to state that he "now" relied on it. The FTT also failed to take into account all the relevant answers to the questions at the asylum interview regarding his family in Egypt, and made an adverse finding at [30] unsupported by the evidence before it.
  6. For the reasons set out in ground 2 the FTT gave inadequate reasons for rejecting the court documents. It is unclear, given the applicable low standard of proof, why the FTT required the court documents to be accompanied by evidence from a lawyer.
  7. As submitted in ground 3, the FTT's findings regarding the relevant country background evidence at [38] and [39] entirely fail to address the evidence to the contrary effect contained in the appellant's bundle, including the respondent's own guidance.

8. Both parties consented to the appeal being allowed and the FTT's decision being set aside. They also agreed that the appeal should be remitted to be remade by the FTT de novo. I have had regard to para 7.2 of the relevant *Senior President's Practice Statement* and the nature and extent of the factual findings required in remaking the decision, and I have decided that this is an appropriate case to remit to the FTT to make fresh findings of fact de novo. None of the FTT's findings of fact are preserved.

## **Decision**

9. The decision of the FTT involved the making of a material error of law. Its decision cannot stand and is set aside.
10. The appeal shall be remade by the FTT (a judge other than Judge Myers) de novo.

Signed: Ms M. Plimmer  
Judge of the Upper Tribunal

Dated: 23 November 2020