



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

Appeal Number: AA/09734/2013
AA/07935/2013
AA/09736/2013

THE IMMIGRATION ACTS

**Heard at Newport
on 23rd May 2014**

**Determination Sent
on 6th June 2014**

Before

UPPER TRIBUNAL JUDGE HANSON

Between

**N S D E
E A A G
C N S E**

(Anonymity order in force)

Appellants

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Paxton instructed by Duncan Lewis Solicitors.
For the Respondent: Mr Richards Senior Home Office Presenting Officer.

DETERMINATION AND REASONS

1. This is an appeal against a determination of First-tier Tribunal Judge Britton promulgated on 12th December 2013 in which he dismissed the appeals of this family unit against a direction for their removal to

Egypt which accompanied the refusal of their applications for asylum, on all grounds.

2. The first appellant was born on a date in 1945. Although they have been allocated separate appeal numbers the second appellant, his wife, and the third appellant (their minor son), are in reality dependents upon his appeal.
3. Having considered the immigration history, evidence and submissions, the Judge sets out his findings from paragraph 52 of the determination. The basis of the claim relates to a fear on return as Coptic Christians.
4. Permission to appeal was refused by a judge of the First-tier Tribunal but granted on a renewed application by Upper Tribunal Judge Lane on the following grounds:

“The country guidance case of MS [2013] UKUT 611 was published before the First-tier Tribunal judge signed off his determination and arguably ought to have been taken into account in considering the appeal. It is arguable that the judge failed to make a finding on the main appellant's assertion in his statement that he would, in effect, wish to proselytise (a risk factor according to the country guidance) and that the judge also failed to make findings regarding the appellants claimed position as a deacon and as to other elements of the case, as asserted in the grounds.”

5. The observations by Judge Lane are factually correct as a reading of the determination and the evidence relied upon shows and are material elements upon which the First-tier Tribunal was required to make specific findings to enable a proper assessment of any risk this family face on return to be undertaken. The situation in Egypt is ongoing and the country guidance case of MS is especially relevant as it refers to the risk to Coptic Christians.
6. The challenge was not actively opposed by Mr Richards regarding the finding there is a material error of law although he submitted that if the Judge had realised the country guidance case had been published prior to promulgation he may have made findings on relevant issues. I agree with this as a general observation but the fact of the matter is that the Judge failed to make the required findings or to refer to the most up-to-date country guidance case.
7. The errors of law can be summarised as (a) a failure to consider relevant evidence, (b) inadequate findings, and (c) failure to apply the required degree of anxious scrutiny. It is accepted by both advocates that in the circumstances, as the appellants have not had a proper hearing before the First-tier Tribunal at which relevant issues can be canvassed and findings made by reference to the country guidance

case and general situation in Egypt following recent elections, the appeal should be remitted to be heard afresh. Accordingly the following directions applied to the future conduct of this case:

- shall be
- centre at Resident three
- filed August the arguments are to be not assume that
- i. The determination of First-tier Tribunal Judge Britton set aside. There shall be no preserved findings.
 - ii. The appeal shall be remitted to the First-tier Tribunal Newport be heard by a salaried judge nominated by Judge Poole on 20th August 2014 with a time estimate of hours.
 - iii. Consolidated, indexed, and paginated bundles shall be with the Tribunal, and served, no later than 4 PM 8th 2014. Witness statements in the bundle shall stand as the evidence in chief of the maker. Skeleton included in any bundles filed. The parties must not assume that documents previously submitted to the Tribunal remain available to it.
 - iv. An Egyptian Arabic interpreter is required.

Anonymity.

8. The First-tier Tribunal made an order pursuant to rule 45(4)(i) of the Asylum and Immigration Tribunal (Procedure) Rules 2005. I continue that order pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008.

Signed.....
Upper Tribunal Judge Hanson

Dated 6th June 2014.