



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

Appeal Number: PA/02515/2018

THE IMMIGRATION ACTS

**Heard at Field House
On 13 March 2019**

**Decision & Reasons Promulgated
On 29 March 2019**

Before

DEPUTY UPPER TRIBUNAL JUDGE CHANA

Between

[N S]

(anonymity direction not made)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the appellant: Ms F Allen of Counsel

For the respondent: Mr S Jones Senior Presenting Officer

DECISION AND REASONS

1. The appellant born on January 1958 citizen of Egypt appealed against the decision of the Secretary of State dated 9 February 2018 refusing her application for asylum and humanitarian protection United Kingdom.
2. First-tier Tribunal Judge Randall dismissed the appellant's appeal in a decision promulgated on 24 January 2019. However, Judge Randall allowed

the appellant son's appeal and granted him asylum in the United Kingdom based on his claim that he is an atheist and would be persecuted in Egypt.

3. Permission to appeal was granted First-tier Tribunal Judge Grant Hutchinson in a decision dated 15 February 2019 finding that it was arguable that the First-tier Tribunal Judge erred in law by finding that the summons was unrelated to atheism without taking into account that the background country guidance evidence which shows a lack of independence of the judiciary in Egypt and that fact there was a charge against both appellants intended to target the first appellant also as a result of our atheism. By failing to consider adequately consider the appellant's claim fear of persecution when considering all the facts and circumstances including the fact that the first appellant has defended her son against also called him an infidel so that people started to threaten her as well. The Judge accepted that the first appellant was an atheist and that she said that she would live openly as one without any consideration of the risk to the appellant in accordance with **HJ Iran**.
4. The Judge failed to take into consideration that the appellant has renounced the Islamic faith by failing to take into account in terms of Article 8 that the first appellant would be returning as a lone female to a country, where she would also have to endure the social stigma of a broken marriage having accepted that she was in an abusive marriage. The appellant has no home to return to in Egypt or family from whom she could seek support. The appellant also serves as a protective factor for her son, the second appellant, who is suffering from PTSD gives physical and emotional assistance to her sister, [S].
5. The First-tier Tribunal Judge dismissed the appellant's appeal and said even though he accepts that she is an atheist she will not be at risk of persecution in Egypt but that her son who is in atheist and who is vulnerable will be at risk. Therefore, the Judge who granted the appellant's son asylum based on his atheism, refused to grant the appellant asylum on account of her atheism. Having read the decision which is extremely long with great care I do not see a proper decipherable reason for the Judge to find that the appellant's son would be at risk, but the appellant would not even though they are both atheists and known to be such in Egypt.
6. The Judge considered the background evidence in respect of atheist and stated that there is a risk to some atheist in Egypt and that the risks have been increased recently but the risk to an individual person will depend on his or her individual circumstances. The Judge also accepted that some circumstances, in a country such as Egypt, the simple withdrawing from religious activity is capable of being identified as atheistic and may stimulate enquiries especially as the men in Egypt tend to worship, more publicly. That does not mean that women would not be

identifies as withdrawing from their religion and not complying with Islamic religious practices. The appellant's evidence was that she was identified as an atheist by fellow lawyers in Egypt.

7. The judge did not properly consider that the appellant had always protected her son from allegations of atheism in Egypt which also put her at risk and she also became a target. The Judge found that the first attack on the appellant was linked to his beliefs in atheism but made no finding that the appellant who lived, in the same house given that it was alleged to be an atheist home. The evidence was that both the appellant and her son had received threats and her son's atheism was known by some in the locality of the family home and therefore there was a reasonable likelihood that the appellant would also be targeted. The Judge is not adequately explained why the appellant's claim was not accepted given his findings in favour of the appellant.
8. The Judge also accepted that the appellant was in an abusive relationship that she would be returning to Egypt without male protection. The Judge also did not consider that the appellant would be returning to Egypt without her son who it was accepted was known to be an atheist and this could put her at risk.
9. In respect of paragraph 276 ADE to Judge found that even though the appellant's marriage broke down and her claim of being an atheist and that these factors are not sufficient to establish the balance of probabilities that there are such very significant obstacles for her return to Egypt. I find that the Judge was not entitled to come to this conclusion on the evidence in the appeal there is a perversity in his findings.
10. I find that this is a material error of law in the decision of the First-tier Tribunal and like the permission Judge I find that the judge has not taken into account all the evidence which was presented on behalf of the appellant against the background evidence about how atheists are treated in Egypt on the lower standard of proof.
11. The Judge did not consider that the appellant was the main carer for her son who the Judge found was a vulnerable person. The medical evidence was that the appellant's son his still vulnerable and requires support of his mother. The Judge failed to consider that the appellant's sisters are in the United Kingdom and the appellant will not have the support of her family on return to Egypt. The Judge did not consider that her son's vulnerability requires that mother and son remain together. The evidence was that the appellant's aunt [S] needs carers herself and will not be able to look after the appellant's son without the appellant.
12. Mother and son came to the United Kingdom together escaping persecution in Egypt because they are atheist. I find that the Judge

materially erred in law in granting protection to the appellant's son and not to the appellant given that essentially both of them relied on the same evidence to prove persecution.

13. Given my remarks above, I set aside the decision of the First-tier Tribunal and remake the decision and allow the appellant's appeal in respect of her asylum claim.

DECISION

The appellant's appeal is allowed under the Refugee Convention.

Signed by

Ms S Chana
A Deputy Judge of the Upper Tribunal

Dated this 26th day of March 2019