



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

Appeal Number: PA/04298/2019

THE IMMIGRATION ACTS

**Heard at Manchester CJC
On 6 December 2019**

**Decision & Reasons Promulgated
On 16 December 2019**

Before

UPPER TRIBUNAL JUDGE PICKUP

Between

**A M
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr M Abdullah, instructed by Hazelhurst Solicitors
For the Respondent: Mr A Tann, Senior Home Office Presenting Officer

DECISION AND REASONS

Pursuant to Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008

- 1. I make an anonymity direction. Unless the Upper Tribunal or a court directs otherwise, no report of these proceedings or any form of publication thereon shall directly or indirectly identify the appellant.*
2. This is the appellant's appeal against the decision of First-tier Tribunal Judge Bannerman promulgated on 11 September 2019 dismissing his appeal against the decision of the Secretary of State dated 18 April 2019

to refuse his application made on 8 November 2018 for international protection on the basis of political opinion, having been a low-level member of the Muslim Brotherhood.

3. First-tier Tribunal Judge Shaerf granted permission to appeal on 23 October 2019.
4. For the reasons set out below, I am not satisfied that there was a material error of law in the making of the decision of the First-tier Tribunal such as to require it to be set aside.
5. Judge Shaerf granted permission largely on the concern that the judge may have been looking at a different screening interview record to that in the respondent's bundle and indicated in the grant of permission that this should be clarified at the Upper Tribunal hearing. It was clarified before me. Both representatives, Mr Abdullah and Mr Tann, indicated that there is no error in relation to that issue and that what Judge Shaerf was referring to was page 13 of the appellant's bundle where, on 18 April, the appellant's representative submitted proposed amendments to his screening interview. Judge Shaerf may have been confused by that, but it is accepted by both representatives that the judge of the First-tier Tribunal made no error in relation to the screening interview record, as there was only one record. However, Judge Shaerf also found in any event that it is arguable that Judge Bannerman attached more than appropriate weight to the screening interview and therefore granted permission on all grounds.
6. I have heard from Mr Abdullah and Mr Tann and have listened carefully to the submissions made and taken them into account before making my decision.
7. In essence, Mr Abdullah's argument is that the whole of the decision is tainted by the judge's heavy reliance on the credibility issues starting at paragraph 67 of the decision, where the judge takes account of the fact that the appellant previously used a false name, false nationality and false date of birth in a previous attempt to enter the United Kingdom, pretending to be a Syrian, when he is in fact Egyptian. At paragraph 67 the judge concluded that this showed the appellant to be a man who is prepared to go to great lengths to hide his true identity even though he now claims his true identity is one that would place him at great risk on return to Egypt. Mr Abdullah accepts that the judge was entitled to take into account that the appellant had been untruthful in 2016 and effectively had attempted to deceive the immigration authorities. The judge stated that this showed the lengths he would go in order to enter the United Kingdom.
8. In the following paragraph, paragraph 68, the judge dealt with the Section 8 issue. The judge is required to consider as damaging to the appellant's credibility the issues as set out there. I need not deal with them in any detail, but the appellant spent some four years before entering the UK in various European countries, during which time he had made absolutely no

claim for asylum in any other safe countries. Mr Abdullah complains that the judge should not have considered that as “determinative”. However, at the second sentence of that paragraph the judge plainly said it is not determinative of the case, but “is a factor I must take into account in looking at weighing the issues of credibility”. It follows that there is no error in the judge taking into account Section 8 matters, provided he does not use that as a conclusion or a frame through which he looks at all the other evidence. There is no evidence that he did.

9. The difficulty for the appellant in this case is that the judge identified early on in the decision very significant discrepancies between what the appellant had claimed in his screening interview and his later claims in his asylum interview and his witness statement. Of note is that in his screening interview he denied being involved with a political organisation or a religious organisation, whereas he later claimed to both as a member of the Muslim Brotherhood. He also said that he had not been accused of or committed an offence, yet later claimed that he had been sentenced in absentia to five years’ imprisonment. The judge within paragraph 70 of the decision took into account the appellant’s explanations for the contradictory answers or inconsistent answers, but even making allowance for some parts of the answers not making any sense, the judge concluded that taken as a whole, his screening interview was directly contradictory to his later claim.
10. It was entirely open to the judge, whose task it was to assess the evidence, to conclude that even applying the lower standard of proof, the appellant was a man who would do anything to get into the UK and was not a man who was telling the truth. None of that is a prejudgment based upon the use of a false identity, or the Section 8 matters, although they are certainly relevant to that. Thereafter, the judge went on to consider the rest of the evidence. The grounds argue that the judge gave too much weight to the appellant’s past behaviour and too much weight to the discrepancies and inconsistencies mentioned above. It is also argued that insufficient weight was given to the appellant’s oral evidence, in which he gave a detailed account of his support of the Muslim Brotherhood in Egypt, which was said to be consistent with the country background information. It is also argued that the judge erred in giving no weight to the consistency between the oral evidence given and the background information, and that the judge failed to consider material evidence regarding core aspects of the appellant’s case. Those grounds were rehearsed before me again today by Mr Abdullah and I have carefully considered them.
11. However, I am satisfied that the grounds largely relate to the weight that was, or was not, accorded to the various aspects of the evidence supporting the appellant’s case. However, the according of weight to evidence is a matter entirely for the judge. It is not an arguable error of law for a judge to give too little or too much weight to a relevant factor unless the decision becomes irrational. Nor is it an error of law for a judge to fail to deal with every factual issue or argument. A disagreement with the judge’s factual conclusions or his appraisal or assessment of the

weight with the credibility does not in and of itself give rise to an error of law.

12. The judge made clear at the outset of his findings in paragraph 65 that he had given very careful consideration to all of the evidence put before him in the case, both written and oral, and one must take the judge at his word unless it can be demonstrated otherwise. The judge was entitled to take account of the past history, which was highly relevant to any assessment of the appellant's credibility, and there is nothing to suggest that the judge did other than make a careful and detailed assessment of the appellant's claim before actually putting his findings to paper in a relatively short form in the decision that we have before us. The truth is that there were very clear discrepancies between the appellant's earlier statements and his later account, which clearly undermined his credibility. Whilst the appellant made a claim that he had not understood the interpreter, on the contrary, the interview record shows that he stated at the end of the interview that the interpreter had explained everything well to him.
13. On the evidence, I am satisfied it was open to the judge to reach the conclusion that even though the appellant gave such a detailed account in his oral evidence, his witness statement, and perhaps even in his asylum interview, the fact is that much of what was said is in the public domain. I accept the point made by Mr Abdullah that that may be true in many cases, that whatever an appellant may say about the matters of country background or events it might well be in the public domain. However, it was certainly a matter the judge was allowed to reach a conclusion on. On any such case, the assessment of the evidence, the weighing of factors for and against the appellant is the essential judicial exercise. It is not an error of law simply because the judge reached a conclusion that the appellant's account is not credible.
14. Mr Abdullah took me to paragraph 76 of the decision where it is stated that the appellant was found not to be a member of or even a supporter of the Muslim Brotherhood and was considered to be an opportunist, utilising whatever he could to make a claim in the UK. The judge said, "I don't even consider that he is a political opponent of the government and his claim now to be sentenced in his absence is, I find, simply untrue." However, at the beginning of that paragraph the judge said he would take account of all the factors raised in the country background, including, by way of example, the CPIN.
15. Looking at the decision in the round, taking into account the points made by Mr Abdullah, and giving anxious scrutiny to the judge's reliance on the credibility findings, I am satisfied that it would be difficult for any judge to reconcile the appellant's later claim, given the findings about the inconsistency between those later claims and his earlier account. Those matters were highly relevant, highly material, to a claim which turned entirely on the appellant's credibility, with no supporting documentation from Egypt.

16. In all the circumstances I am satisfied that the decision was well-made and that the findings in relation to the appellant's credibility were ones which were entirely open to the judge on the available evidence and for which adequate reason has been provided. For those reasons I find no error of law in this decision.

Decision

17. The making of the decision of the First-tier Tribunal did not involve the making of an error on a point of law such as to require the decision to be set aside.

I do not set aside the decision.

The decision of the First-tier Tribunal stands, and the appeal remains dismissed.



Signed

Upper Tribunal Judge Pickup

Dated

11 December 2019

**To the Respondent
Fee Award**

I have dismissed the appeal and therefore there can be no fee award.



Signed

Upper

Tribunal Judge Pickup

Dated

11 December 2019