



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: PA/10509/2017

### **THE IMMIGRATION ACTS**

Heard at Manchester  
On 19th February 2019

Decision and Reasons Promulgated  
On 11<sup>th</sup> April 2019

#### **Before**

DEPUTY JUDGE UPPER TRIBUNAL FARRELLY

#### **Between**

M H  
(ANONYMITY DIRECTION MADE)

Appellant

#### **And**

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

#### **Representation:**

For the appellant: Dr Khan, Counsel, instructed by MS Solicitors.

For the respondent: Mr Tan, Senior Presenting Officer.

### **DECISION AND REASONS**

#### **Introduction**

1. The appellant is a national of Egypt. His wife and 3 children remain in Egypt. He entered the United Kingdom in September 2016 on his own passport endorsed with a visitor's visa. In October 2016 he made a claim to protection on the basis of political opinion.

2. He worked in the United Arab Emirates and Qatar since 2010. He said he returned to Egypt in early February 2016 and was arrested 6 days later and accused of providing funds for the Muslim Brotherhood. Whilst detained he was abused. He claimed that his uncle, a retired police chief, facilitated his release on bail and organised documentation, including the visit Visa so he could leave the country through the main airport. He claims his uncle was unaware he intended to claim protection. An arrest warrant has now been issued and he subsequently was sentenced to 15 years imprisonment in absentia.
3. He claims he is at risk because of his association with his brother, F, a journalist who drew cartoons and made Internet postings critical of the regime. His brother was living in Qatar and has since gone to America where he has been granted protection.
4. The respondent rejected his claim in October 2017. It was accepted he might have had some low-level activity within the Muslim Brotherhood and the Freedom and Justice Party(FJP).It was not accepted he was a member. The truth of his underlying claim was not accepted. Discrepancies in his account of being detained were highlighted. The respondent did not find it credible that he could pass through airport security if he was on a watchlist. His failure to claim immediately on arrival at Heathrow was highlighted.

#### The First tier Tribunal

5. His appeal was heard by First-tier Tribunal Judge J Hillis at Bradford on 20 August 2018. In a decision promulgated on 13 September 2018 it was dismissed. The judge did not find the appellant credible. The judge pointed out the appellant had a brother in Egypt and him, and the appellant's wife and family members had not complained of any difficulties.
6. The appellant had claimed his brother had been indirectly punished by being removed from his position as a public contractor. At hearing the appellant produce his passport which remained in his own name but said that details about his address and occupation had been changed.
7. The judge was provided with evidence about the appellant's brother who formerly lived in Qatar and had been given protection in America. The judge noted that his brother had not attended the hearing nor had there been a request for a video link. The judge found inconsistencies between his brother's account in his statement and the appellant's own account, with the former stating that the appellant's family were also threatened. The judge was not prepared to attach weight to his brother's evidence in relation to the appellant's claim, pointing out that his brother had no personal knowledge of what happened to the appellant in Egypt.

8. The judge referred to the documents provided in support of the claim particularly the translation of the purported court decision. The document went to the core of the claim and the judge was not prepared to attach any weight to the document on the basis only a summary had been provided by the translator.

### The Upper Tribunal

9. Permission was granted on a renewed application on the basis it was arguable the judge erred in giving no weight to the translation of what was said to be a court document. This was the last of 4 grounds advanced and the permission was granted on all.
10. The 1<sup>st</sup> ground contended that the judge erred in law in concluding the appellant had failed to provide a reasonable explanation as to why the Egyptian authorities would detain and abuse him but not his brother who lived in the country. It was argued on his behalf that their circumstances were different in that the appellant had been living with his other brother in Qatar when that brother was engaged in anti-government activity. This in turn imputed suspicion to him. Furthermore, the appellant said he was a member of the Muslim Brotherhood and Freedom and Justice party whereas his brother in Egypt was not.
11. The second ground was that the judge failed to make clear findings on whether it was accepted the appellant was a member of the Muslim Brotherhood and the Freedom and Justice Party. If he were, this enhanced the risk.
12. The third-ground was that the judge failed to take into account the country information. Reference was made to the respondent's guidance referred to in the refusal letter that the Egyptian authorities target family members. On behalf of the appellant it was contended this is what happened when his brother in Egypt had to relocate and lost his government work.
13. At hearing, Dr Khan relied upon the grounds for which permission had been granted and expanded upon them. In terms of the court document he explained that the procedure under Egyptian law was that such court documents are released to a person's lawyer. In this case, he said the appellant's lawyer would not then release the document until paid for their services. He said that the appellant did not have the funds. He said that his brother in America provided the funds and his brother in Egypt arranged to have the document collected and forwarded. He said that the appellant's uncle who had financed his release and travel, no longer wanted to have any further involvement. He said the appellant then arranged to have it translated services operated by Manchester City Council. There is a covering letter from the Council dated 7 February 2019. However, the covering envelope from Egypt indicated it had been

forwarded on 2 January 2018 which predated the First-tier Tribunal hearing Khan was unaware why if the document was then available a full translation had not been arranged before the First tier hearing.

14. Dr Khan went on to argue that there was an explanation as to why the appellant would be treated differently from his brother in Egypt's. There was no suggestion that his brother in Egypt had been involved in any politics and in any event did receive punishment by being required to relocate because of his job change. He said the appellant was closely associated with his brother in America. Both had been living outside of Egypt. His brother had been granted protection by the American authorities.
15. Dr Khan argued that there was confusion on the part of the judge in relation to the membership card produced. He said that the Freedom and Justice party gives political expression of opposition to the regime.
16. Mr Tan respondent to the different grounds advanced. He said the judge had given clear reasons for rejecting the appellant's claim. The judge did not find the appellant to be credible.
17. At paragraph 56 to 58 the judge compared the account given by F with the appellant's and found significant inconsistencies between the two. The judge made the point at paragraph 59 that his brother F was not in Egypt at the time of the appellant's claim difficulties. The account he gave was hearsay.
18. At paragraph 60 the judge deals with the claim that there is a distinction between the appellant's situation and that of his brother in Egypt. The judge rejected this at paragraph 61 and at paragraph 62 and 63 gave reasons.
19. Regarding the 2<sup>nd</sup> ground advanced he acknowledged the judge had not made clear findings but the judge was aware that even low ranking members faced imprisonment. This was reflected at paragraph 64 and 65.
20. Mr Tan commented on the 3<sup>rd</sup> and 4<sup>th</sup> grounds. Regarding the latter he submitted the judge had correctly applied the principles set out in Tanveer Ahmed.

### Consideration

21. From reading the decision as a whole it is clear that the judge has carefully considered the claim made; the evidence and the arguments advanced. At paragraph 18 onwards the judge sets out the point taken by the respondent in the reasons for refusal letter and in subsequent submissions. At hearing the presenting officer confirmed the respondent was no longer taking an issue about the

absence of a photograph on the membership card for the freedom and Justice party submitted.

22. At paragraph 38 onwards the judge sets out various reasons for rejecting the claim. At hearing the appellant had confirmed that his wife and their 3 children remained in Egypt as did his 2 sisters and a brother. There was no claim of difficulties for them following his departure. His brother in Egypt had never been arrested but it was said he had to relocate and was removed from his employment because of his brother Fras activities and not because of anything the appellant did. The appellant had not trained political activity in Qatar or in the United Kingdom. On his account he had been away from Egypt for many years. It was recorded his difficulties were because of his association with Fra.
23. The appellant had claimed when interviewed that he was on a blacklist after being released from custody. Notwithstanding this, the judge comments on his ability to leave on his own passport from the airport. The passport had been submitted to the British authorities so he could obtain a visit Visa and it was a genuine document albeit he claimed his occupation and address had been changed.
24. The appellant's brother in America had provided a statement. Details of his claim and also been submitted. The judge compared the claims made by Fras with the appellant's account and found significant inconsistencies between the 2. His brother for instance stated that the appellant's family had been threatened with the appellant had not claimed stop the judge concluded either his brother was honestly mistaken was exaggerating to assist the appellant. The judge commented on the fact that his brother had not attended the hearing to give evidence in person had been any request for a video link.
25. The judge attached significance to the fact that the appellant's other brother was apparently able to remain in Egypt, as were other family members, without difficulties. The claim advanced was that he had to relocate and had been demoted. Reasons were advanced on behalf of the appellant to explain why he would be targeted but not his brother in Egypt. The judge rejected the attempts at drawing a distinction.
26. The reasons for refusal letter advances a number of reasons for rejecting the appellant's claim. Overall, the account was not considered credible.
27. The appellant had produced various pieces of evidence in support of his claim. These are set out in the refusal letter at paragraph 10.

28. Paragraph 20 refers to an apparent discrepancy in his account as to how long he was detained for. He subsequently explained this by distinguishing an initial period spent in police custody and the subsequent period when he was in a prison.
29. He described being subjected to regular beatings yet there was no evidence to support any injuries. On his account he was detained from 10 February 2016 to 12 April 2016, claiming protection on 7 October 2016. There was no evidence of medical treatment in Egypt nor was there any evidence of residual signs of injury after he arrived.
30. It was pointed out that on his account he had remained living openly in each of for 6 months after his release.
31. The respondent question his ability to pass through airport security on his own passport, even if details had been changed.
32. Section 8 was then raised because of his failure to claim immediately on arrival.
33. At paragraph 64 the judge deals with the appellant's claim membership of the Freedom and Justice party and the Muslim Brotherhood. The judge was not satisfied that the membership card provided was genuine. The judge gave reasons.
34. The judge then deals with the court document submitted. The translation covered only the start and end. The judge raised this with the appellant's representative who acknowledged this detracted from it. The judge felt unable to give any weight to the document and does refer to the evidence taken as a whole. It may be the judge at para 71 was overly prescriptive in stating ` I am unable to give any weight to the contents of this Court document as it is merely "summary" by the translator.' Although the sentence suggests the reason for rejecting the evidence is because it is a summary when read in the context of the paragraph the judge correctly considered it along with all the other evidence in the round.
35. In conclusion I find that no material error of law has been established. I find the arguments largely are an attempt to reargue issues. It was for the judge to assess the claim and evaluate the evidence. I find the conclusions reached where one's open to the judge and no material error is disclosed.

### Decision.

No material error of law has established in the decision of First-tier Tribunal Judge J Hillis. Consequently, that decision dismissing the appeal shall stand.

Deputy Upper Tribunal Judge Farrelly.

Dated 08 April 2019