



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: PA/10966/2018

THE IMMIGRATION ACTS

Heard at Manchester
On 17th May 2019

Decision & Reasons Promulgated
On 15th August 2019

Before

DEPUTY UPPER TRIBUNAL JUDGE MANDALIA

Between

K A
(ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Semega-Janneh, instructed by CB Solicitors

For the Respondent: Mr Tan, Home Office Presenting Officer

DECISION AND REASONS

1. The First-tier Tribunal ("FtT") has made an anonymity order and for the avoidance of any doubt, that order continues. KA is granted anonymity throughout these proceedings. No report of these proceedings shall directly or indirectly identify him. This direction applies both to the appellant and to the respondent. Failure to comply with this direction could lead to proceedings being brought for contempt of court.

2. This is an appeal against the decision of First-tier Tribunal (“FtT”) Judge Anthony promulgated on 10th December 2018. The FtT Judge dismissed the appellant’s appeal against the decision of the respondent dated 7th September 2018, to refuse his claim for international protection.

3. The appellant is a national of Egypt. The background to the claim for international protection and the events that the appellant claims led to his departure from Egypt, are summarised at paragraph [4] of the decision of the FtT Judge and I do not repeat the claim in this decision. The findings and conclusions of the FtT Judge are set out at paragraphs [14] to [32] of the decision. Again, I do not set out in any detail, the findings that were made by the Tribunal. It is sufficient for present purposes to simply note that the FtT Judge comprehensively rejected the account of events relied upon by the appellant. The FtT Judge found that the appellant had been unable to articulate what his political beliefs are, and the appellant had been unable to give a credible explanation as to what motivated him to attend a demonstration in May 2014, and the cause that he was championing at the demonstration. The FtT Judge did not accept that the appellant had attended a demonstration, or that he was subsequently detained, as he claimed. At paragraph [26] of the decision, the FtT Judge summarises his conclusions upon the claim for international protection as follows:

“I find the inconsistencies in his account renders his account wholly unreliable. I find the appellant has not been truthful regarding his involvement with an anti-government demonstration. Nor has he been truthful regarding any arrest and detention. I find the appellant has failed to discharge the burden of proof to the low standard that he was arrested and imprisoned.”

The appeal before me

4. The appellant criticises the Judge’s assessment of the evidence given by the appellant. Mr Semega-Janneh adopted the grounds of appeal and submits that the FtT Judge was mistaken in stating, at [16], that the appellant had stated in the substantive interview that there are no political parties in Egypt but the Muslim Brotherhood. In answer to the question “*What political parties exist in Egypt?*”, at

question 66 of the interview, the appellant had also referred to the Communist Party. He submits that the reference to there being no other political parties, was a reference to there being no other political parties in his village. The Judge states that it is reasonable to expect the appellant to be aware of the existence of some political parties but failed to have regard to the answer given by the appellant during the interview. Mr Semega-Janneh submits that the Judge proceeds, at [17], to note that the appellant now names other parties in Egypt, whereas the appellant had clearly done so, previously.

5. Mr Samega-Janneh submits that it was irrational for the FfT Judge to conclude, at [17], that the fact that the appellant could not name any political party that shares his claimed beliefs, is a strong indication that he has no political beliefs. He submits that it is possible for an individual to hold a view or belief that does not fit with any mainstream political party, and an individual is not required to be aligned to a political party, to hold a political belief. The appellant claims that he had articulated the difficulties that were being experienced in Egypt that caused him to attend the demonstration, and the appellant gave a clear explanation in response to question 89 of the substantive interview, as to how he had become aware of the demonstration. Mr Samega-Janneh submits that the appellant was demonstrating for a cause. That was, as he explained in answer to question 89 of the substantive interview, the release of his colleagues. Attending a demonstration directed to a cause did not require the appellant to be aligned to a political cause, or a political party. The appellant had given a credible explanation for what motivated him to attend the demonstration in interview, and it was irrational for the FfT Judge to conclude that there is no credible explanation provided by the appellant.
6. The appellant claims that in considering the appellant's account of his detention, the FfT Judge attached undue weight to the answers given by the appellant during his screening interview.
7. Permission to appeal was granted by Upper Tribunal Judge Grubb on 12th March 2019. The matter comes before me to consider whether the decision of the FfT

involved the making of a material error of law, and if so, to remake the decision. At the end of the hearing before me, I informed the parties that in my judgement, the decision of the FtT is not tainted by a material error of law, and the appeal is dismissed. I informed the parties that I would provide my full written reasons for dismissing the appeal in due course. I now do so.

Discussion this

8. The findings and conclusions of the Judge are set out at paragraphs [15] to [25] of the decision. The Judge had the benefit of hearing from the appellant, and of having his evidence tested in cross-examination. It was for the appellant to establish that there is a reasonable degree of likelihood that he faces a risk upon return, and it was for the Judge to make his findings on whether, and to what extent, the appellant's account is credible.
9. The appellant does not claim to be aligned to any particular political party, and as the FtT Judge properly notes at [17], when the appellant was asked in interview whether any parties or politicians in Egypt share a similar view to him about the current president and government (Q.82), the appellant responded that there were no political parties in Egypt. The appellant's evidence regarding political parties in Egypt was on any view, very vague. Although there is some force to the appellant's claim that the FtT Judge proceeds, at paragraph [16], upon the mistaken premise that in his substantive interview the appellant stated that there are no political parties in Egypt but the Muslim brotherhood, without having regard to the reference to the Communist Party, that mistake is immaterial.
10. I have carefully read the decision of the FtT Judge and his findings regarding the events of 12th May 2014, and the two periods of detention that the appellant claims, followed. The Judge rejected the appellant's account of events and in my judgement it was open to him to do so. At paragraphs [18] to [25] of the decision, the FtT Judge carefully considered the appellant's evidence regarding the demonstration that he claimed to have attended, and his subsequent detention which was at the heart of the claim for asylum. Whilst the findings were perhaps

not as well-expressed as they might be, that is not to say that the FfT Judge failed to consider the evidence or reached a conclusion that was not open to him. The obligation on a Tribunal is to give reasons in sufficient detail to show the principles on which the Tribunal has acted and the reasons that have led to the decision. Such reasons need not be elaborate, and do not need to address every argument or every factor which weighed in the decision. The FfT Judge considered the appellant's motives for joining the demonstration, his claimed role in the demonstration, the reasons for the demonstration, and how he had become aware of the demonstration. The Judge noted the inconsistencies in the evidence of the appellant.

11. The appellant claimed that he had been detained twice following his attendance at the demonstration. He claimed in his substantive interview that he was hit whilst he was running away from the demonstration by an investigator wearing civilian clothes. He was then put in a vehicle and detained, initially for one week, and then a further 11 months after he had been taken to the 'Prosecutor Bureau'. The appellant claimed that he was released after he had been called to sign a document, and that he had been released in April 2015. The FfT Judge found at [22], that the appellant had been unable to articulate why he had been detained and that photographs that he relied upon in support of his claim, did not assist the Tribunal in determining whether the appellant had been detained. The FfT Judge found that the appellant had given inconsistent evidence regarding his encounters with the authorities and when he had last had problems in Egypt. The FfT Judge also noted that despite claiming that he had been detained for 11 months, in his screening interview completed on 11th April 2018 when the appellant arrived in the UK, in answer to the question (Q.5.4) "*have you ever been detained, either in the UK or any other country for any reason?*", the appellant had replied "*No*".
12. The assessment of risk upon return and credibility is always a highly fact sensitive task. It is well established that the ingredients of the story, and the story as a whole, have to be considered by reference to the evidence available to the Tribunal. In any assessment of the account relied upon by an appellant, factors such as consistency

with what the appellant has said before, and with other evidence, including any documents relied upon are relevant. On a proper reading of paragraphs [18] to [25] of the decision, the Judge had regard to the factors relevant to his assessment of the claim. On appeal, the Upper Tribunal should not overturn a judgment at first instance, unless it really cannot understand the original Judge's thought process when he or she was making material findings.

13. In my judgement, a careful reading of the consideration by the Judge demonstrates that he had clearly in mind, the various facets to the appellant's claim. It was for the Tribunal to make its own findings on whether, and to what extent, the appellant's account is credible. In my judgement the FtT Judge carefully weighed up the evidence and reached a conclusion that was neither irrational nor unreasonable in the *Wednesbury* sense.
14. The Judge did not reach findings that were wholly unsupported by the evidence. The FtT Judge was required to consider the evidence as a whole. The decision must be read as a whole and when properly read, in my judgement, it was open to the Judge to conclude that the appellant is not at risk upon return. The decision is one that was open to the Judge, and cannot be said to be perverse, irrational or unreasonable. It follows that in my judgment, the decision of FtT Judge Anthony is not infected by a material error of law and I dismiss the appeal.

Notice of Decision

15. The appellant's appeal against the decision of FtT Judge Anthony is dismissed and the decision of the FtT Judge is to stand.
16. I continue the anonymity direction previously made.

Signed

Date

21st June 2019

Deputy Upper Tribunal Judge Mandalia

TO THE RESPONDENT

FEE AWARD

I have dismissed the appeal but in any event, as no fee is payable, there can be no fee award.

Signed

21st June 2019

Deputy Upper Tribunal Judge Mandalia