



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

Appeal Number: PA/11187/2019

**THE IMMIGRATION ACTS**

**Heard at Field House**

**On Thursday, 17 September 2020**

**Decision & Reasons  
Promulgated  
On Tuesday, 22 September  
2020**

**Before**

**UPPER TRIBUNAL JUDGE PITT**

**Between**

**MR A N M  
(ANONYMITY DIRECTION MADE)**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr M Allison, Counsel instructed by Quality Solicitors  
For the Respondent: Mr T Lindsay, Senior Home Office Presenting Officer

**DECISION AND REASONS**

**Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure  
(Upper Tribunal) Rules 2008**

Unless and until a Tribunal or court directs otherwise, the appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify him or any member of his family. This direction applies both to the appellant

and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.

This is an appeal against the decision issued on 9 March 2020 of First-tier Tribunal Judge Hembrough which refused the appellant's asylum and human rights claim.

The appellant is a national of Egypt born in 1953. The background to this matter is that the appellant came to the UK from Egypt on 6 October 2013 with leave as a visitor. On 15 November 2013 he made a refugee claim. This was refused by the respondent on 13 August 2015. The appeal came before First-tier Tribunal Judge Fox, who in a decision issued on 16 May 2016 refused the appeal on all grounds. The decision of Judge Fox was upheld by Deputy Upper Tribunal Judge Monson in a decision issued on 9 September 2016.

On 21 July 2017 the appellant made further submissions to the respondent which were not found to show a need for international protection but were accepted as a fresh claim. The appellant exercised an in country right of appeal and the appeal came before Judge Hembrough on 17 February 2020.

The basis of the appellant's claim for asylum is that he and his family were supporters of the Muslim Brotherhood. He maintained that his wife and their three adult sons were leading members of the Muslim Brotherhood. After President Morsi was deposed on 3 July 2013 the appellant took part in demonstrations organised by the Muslim Brotherhood between July and October 2013. On 4 October 2013 his son received a telephone call advising the family that a warrant had been issued for the appellant's arrest. He then fled to the UK. He maintained that following a hearing in absentia on 15 January 2014 he and two of his sons had been sentenced to nine years and six months in prison with hard labour and a fine of 30,000 Egyptian pounds because of their involvement with the Muslim Brotherhood. His wife received a sentence of five years and six months with hard labour and a fine of 20,000 Egyptian pounds. When interviewed by the respondent he indicated that his wife and sons were still at large in Egypt, however.

The appellant also maintained that he had worked for a textile company where he was a "syndicate" member, which appears to have involved him in the equivalent of union activities, advocating for the rights of employees. He had written a number of newspaper articles during the 80s and 90s critical of the government policies of the day but had not faced mistreatment on that basis prior to the events of 2013.

### **First-tier Tribunal Decision**

The First-tier Tribunal set out the basis of the appellant's asylum claim in paragraphs 7 to 20 of the decision. The respondent's refusal letter is summarised in paragraphs 21 to 23. In paragraphs 24 to 26 the First-tier Tribunal sets out material details from the decisions of First-tier Tribunal Judge Fox and Deputy Upper Tribunal Judge Monson from the appellant's previous appeal. At paragraphs 27 and 28 the judge summarised the appellant's further

submissions that led to the current appeal. The judge summarised the current refusal decision under challenge in paragraphs 29 to 40. The proceedings from the hearing on 17 December 2019 are set out in paragraphs 41 to 43 and at the hearing on 17 February 2020 in paragraphs 44 to 63.

The judge's findings are set out in paragraphs 64 to 86. The judge makes a correct legal self-direction in paragraph 65, taking the starting point for his consideration as the decisions of Judge Fox and Judge Monson which had found the applicant to lack credibility. The judge noted in paragraph 66 that there were factors in the appellant's profile that he had to hold in mind when assessing the evidence, namely the appellant's age, his chronic health conditions and history of depression.

In paragraphs 67 to 70 First-tier Tribunal Judge Hembrough found that it had not been shown that the appellant or members of his family were members of the Muslim Brotherhood. He provided a number of cogent reasons for finding the appellant's account lacked credibility.

In paragraphs 67 and 68 the judge indicates that the appellant's claim that his sons were high-ranking members of the Muslim Brotherhood was not documented in any way. This was notable where the appellant claimed that his sons were senior members of the Muslim Brotherhood. A video on which the appellant relied was not relevant and did not support the claim; see paragraph 69. In paragraph 70 the judge points out the country evidence showed that the authorities both prosecuted and persecuted very actively leading members of the Muslim Brotherhood. This was highly inconsistent with the appellant's claim that he, his wife and two of his sons had been sentenced to lengthy jail sentences but his wife and his sons had been able to remain living in Egypt, apparently in plain sight, and working. The evidence concerning the appellant's syndicate activities did not show anything that might lead to difficulties on return' see paragraph 73. It was found in paragraph 74 that it was not credible that the appellant's brother in law, a retired army officer, would have given shelter to the appellant's wife after she was convicted because of her involvement with the Muslim Brotherhood. It was also not credible that the appellant's third son was never charged with anything even though he was said to be secretary for education within the Muslim Brotherhood.

The appellant's new documents were not reliable when assessed against the evidence as a whole. Many of the documents were handwritten and not capable of being verified by any of the experts approached by the appellant's solicitors. There was country evidence indicating that this kind of documents are readily available; see paragraph 75. In paragraph 76, the judge noted that the appellant's daughter who lives in the UK "claimed to have no knowledge of the claimed problems in Egypt beyond what he had told her despite being in contact with her mother". In paragraph 77 the judge points out that the appellant's third son, who has never been charged with any offence, could have provided evidence, either a witness statement or by coming to the UK but there was nothing from him at all. The appellant maintained that there was

difficulty with communication but this was undermined by the daughter's evidence who said that she last spoke to her mother in Egypt a few weeks ago.

In paragraph 78 the judge notes that having pointed out to the appellant's representatives that it was open to them to contact the lawyers in Egypt that the appellant claimed to have been involved with his case, nothing had been done. The judge found in paragraph 81 that evidence of the family home being sold, which was not accepted, even at its highest did not show that this was not in connection with some other process, for example non-payment of the mortgage. Nothing explained why the appellant was prosecuted again in 2016; see paragraph 80. Documents showing that the family home had been sold did not clarify whether this was merely due to failure to pay the mortgage or some other reason unconnected with political activity; see paragraph 81.

The judge concluded in paragraph 82 that the new evidence was not capable of distinguishing the adverse credibility findings of the previous Tribunals.

The judge went on in paragraphs 82 to 84 as follows:

- "82. Looking at the evidence before me in the round I find nothing in the fresh submissions or the new evidence presented that would undermine the findings of the previous Tribunals. I find his claim to be a fabrication with the aim of achieving refugee status in the UK. As I have noted his daughter is a failed asylum seeker who achieved status on discretionary grounds. There is therefore a track history within the family. I also note that he has been receiving free treatment for a variety of chronic conditions via the NHS to which he is not entitled.
83. As regards the Appellant's claimed *sur plas* (sic) activity I find the evidence points to him having attended possibly three demonstrations in six years. Given my findings in relation to his lack of credibility and the lengths to which he has gone to manufacture what I have found to be a false asylum claim I find his attendance to be nothing more than a cynical attempt to bolster his claim. There was no evidence to show that any of his claimed political activities had come to the attention of the Egyptian authorities.
84. I have not been satisfied that he has any sort of profile that would bring him to the adverse attention of the Egyptian authorities on return or that he will engage in any form of political activity in Egypt such as to bring him to adverse attention. I find that he will refrain from (sic) in (sic) so not because of fear of persecution but because of a lack of any ongoing commitment to the opposition cause."

None of the findings set out above was challenged by the appellant.

The appellant's grounds of challenge maintained that the judge's findings in paragraphs 83 and 84 on his *sur place* activity and refraining from being politically active on return to Egypt because he had no genuine political motivation.

The error arose where the First-tier Tribunal found as follows in paragraph 71 of the decision:

“71. Taken at it (sic) very highest I accept that the Appellant may have been a low level supporter of the Muslim Brotherhood who attended a few demonstrations in 2013. He was never arrested and I find that there was nothing in his profile that would have brought him to the adverse attention of the authorities in the aftermath of the demise of the Morsi regime. The reality is that he was one of over a million such people.”

It was submitted for the appellant that it was accepted that the appellant had some political motivation in 2013 when he had attended largescale demonstrations when President Morsi was deposed. The grounds argue that Judge Hembrough appears to have assumed that “the political commitment that A had to the Muslim Brotherhood cause just before his entry to the UK in 2013 had completely evaporated” and that this was an error of law. Where it was accepted that he had demonstrated some level of political motivation that had to be assessed and reasons given for finding it to be insufficient to show that he had attended demonstrations in the UK on a purely cynical basis and that he would not demonstrate on return because he had no interest in doing so.

In my view the First-tier Tribunal judge did not err in his conclusion that the appellant had operated on a cynical basis when attending demonstrations in the UK and in finding that he would engage in any form of political activity that would bring him to adverse attention because he is not motivated to do so. The judge gave the cogent and detailed reasons set out above for finding that the appellant had fabricated the claim that he was a much more active supporter of the Muslim Brotherhood, that he had been sentenced in absentia for this, that his family were high ranking members of the Muslim Brotherhood and had also been convicted and given long prison sentences. Those findings stand. Reading the decision fairly, Judge Hembrough considered that given “the lengths to which he has gone to manufacture” a false asylum claim, the appellant’s claim of some ongoing political motivation was cynical. Judge Hembrough was very clear in paragraph 84 that he did not accept that the appellant had any ongoing commitment to the opposition cause. That was a rational finding open to the judge and he was not required to do more than he did in paragraphs 83 to 85 to clarify his finding that the appellant’s claim to have ongoing political commitment was cynical. It is sufficiently clear from the decision why the First-tier Tribunal did not accept the genuine nature of the appellant’s *sur place* activities in the UK or that he would refrain from taking action on return because of a fear of reprisals rather than lacking any genuine political motivation.

For these reasons I find that the decision of the First-tier Tribunal does not disclose an error on a point of law and shall stand.

## **Decision**

The decision of the First-tier Tribunal does not disclose an error on a point of law and shall stand.

Signed: S Pitt  
Upper Tribunal Judge Pitt

Date: 17 September 2020