



**Upper Tribunal  
(Immigration and Asylum Chamber)      Appeal Number: PA/05004/2019**

**THE IMMIGRATION ACTS**

**Heard at George House, Decision & Reasons Promulgated  
Edinburgh On 4<sup>th</sup> November 2021 On 18<sup>th</sup> November 2021**

**Before**

**UT JUDGE MACLEMAN**

**Between**

**M H**

Appellant

**and**

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

Respondent

For the Appellant: Ms L Crichton, of Maguire, Solicitors  
For the Respondent: Mr M Diwyncz, Senior Home Office Presenting Officer

**DETERMINATION AND REASONS**

1. This determination is to be read with:
  - (i) The respondent's refusal letter dated 12 May 2019.
  - (ii) The appellant's grounds of appeal to the First-tier Tribunal.
  - (iii) The decision of FtT Judge Montgomery, promulgated on 13 November 2019.

- (iv) The decision of UT Judge Coker, promulgated on 24 September 2020.
  - (v) The appellant's skeleton argument.
2. The decision of UT Judge Coker at [12 - 13] sets aside the decision of the FtT; retains the FtT's findings on the internal and external consistency of the appellant's account, which the respondent had not sought to appeal; and retains the appeal to be "remade in the UT on the basis of the evidence that is presently before the UT". Directions were set for filing of any further background evidence and for filing of skeleton arguments, on the provisional view that the resumed hearing would be limited to submissions.
  3. A transfer order has been made to enable the UT's decision-making to be completed by another judge.
  4. Neither party has filed any further background evidence. The appellant has filed a skeleton argument, as referred to above, but there is nothing further on file from the respondent.
  5. The refusal letter is based on rejecting the appellant's credibility, due to inconsistencies and discrepancies in his evidence. Mr Diwyncz accepted that he was a vulnerable witness, a matter to be considered in assessing any discrepancies; that the expert medical report (post-dating the respondent's decision), disclosing a high degree of consistency between its findings and the trauma described, weighed in his favour; and that the FtT at [46-47] found his core account of events in Egypt consistent both internally and externally.
  6. That removes most of the points taken in the refusal letter.
  7. The refusal letter is also based in part on inconsistencies and improbabilities in the appellant's account of his travels in Europe and his contacts with national authorities - see [41], and the "section 8 consideration" at [57 - 65], based on an unlikely account and on failure to take advantage of a reasonable opportunity to claim while in a safe country.
  8. The FtT's errors, as found by Judge Coker, were (i) inconsistency in her treatment of the medical report and (ii) failure, having made positive credibility findings, to identify any "inconsistencies and discrepancies" relied upon to make the adverse credibility finding "save the findings in relation to the journey and the date".
  9. As matters have developed, the respondent's case now rests on no substantial point beyond discrepancies over travels and dates within Europe.
  10. I am obliged to both representatives for their submissions. Having heard and considered those, I indicated that the appeal would be allowed.

11. There is no reason to doubt that the appellant spent a few years in various countries in Europe. His account of his movements is less than crystal clear, but that is not surprising. Those were the chaotic movements of a witness of whom accurate and detailed recall was not to be expected, and who had less than perfect understanding of official interactions.
12. The respondent has not persuaded me that discrepancies over travels and dates within Europe amount to a reason to find that the appellant's account of events in Egypt, otherwise found to be credible, is less than probative to the lower standard of proof.
13. The respondent's position throughout has been that the case turns on credibility alone. The risk is from the authorities. The respondent does not argue that on the facts as now established, the appellant would not be a real risk of persecution on return.
14. The decision of the FtT has been set aside. The decision substituted is that the appeal, as brought to the FtT, is allowed on grounds falling within the Refugee Convention.
15. An anonymity direction is maintained at this stage.



8 November 2021  
UT Judge Macleman

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#### NOTIFICATION OF APPEAL RIGHTS

1. A person seeking permission to appeal against this decision must make a written application to the Upper Tribunal. Any such application must be **received** by the Upper Tribunal within the **appropriate period** after this decision was **sent** to the person making the application. The appropriate period varies, as follows, according to the location of the individual and the way in which the Upper Tribunal's decision was sent:
  2. Where the person who appealed to the First-tier Tribunal is **in the United Kingdom** at the time that the application for permission to appeal is made, and is not in detention under the Immigration Acts, the appropriate period is **12 working days (10 working days, if the notice of decision is sent electronically)**.
  3. Where the person making the application is in detention under the Immigration Acts, **the appropriate period is 7 working days (5 working days, if the notice of decision is sent electronically)**.
  4. Where the person who appealed to the First-tier Tribunal is **outside the United Kingdom** at the time that the application for permission to appeal is made, the appropriate period is **38 days (10 working days, if the notice of decision is sent electronically)**.
5. A "working day" means any day except a Saturday or a Sunday, Christmas Day, Good Friday or a bank holiday.
6. The date when the decision is "sent" is that appearing on the covering letter or covering email.