



IAC-FH-CK-V1

**Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: PA/00921/2020**

THE IMMIGRATION ACTS

**Heard at Field House
On the 04 February 2022
Extempore decision**

**Decision & Reasons Promulgated
On the 09 March 2022**

Before

UPPER TRIBUNAL JUDGE SHERIDAN

Between

**[M Y M]
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms F Kadic, Legal Representative, Wimbledon Solicitors
(Balham High Rd)

For the Respondent: Mr M Diwnycz, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant is a citizen of Egypt born on 4 November 1987 who has been in the UK since June 2015. He is appealing against the decision of Judge of the First-tier Tribunal Parkes (“the judge”) promulgated on 5 May 2021 dismissing his protection and human rights appeal.
2. The appellant claims to be at risk in Egypt because of his support for the Muslim Brotherhood and Freedom for Justice Party. He claims that because

of his support for these organisations his discharge from military service in 2013 was delayed by several months and that over a period of almost a year, whilst still in the military, he was repeatedly detained and released (on a total of ten occasions). He claims that during this period he suffered very severe abuse. He also claims that in June 2013, during one of the periods in which he was temporarily released, he attended a demonstration.

3. The appellant claims that after his discharge from the military in November 2013 he worked on a fruit and vegetable stall without facing problems until, in 2015 whilst in Germany as a tourist, false charges were brought against him.
4. In support of his claim the appellant, inter alia, submitted a document from Egypt which purports to be from the "Criminal Registrar". The document, which is dated 2 November 2020, states that on 1 August 2013 the appellant was arrested and interrogated and confessed that he *"heads a group that stirs riots and spreads rumours and threatens the security of the Arab Republic of Egypt"*.
5. The judge did not find the appellant's account credible. The two key reasons given by the judge for not believing the appellant were:
6. The appellant's account of being repeatedly detained and released – as well as of attending a demonstration in June 2013 – was inconsistent with Criminal Registrar document, which refers to the appellant being arrested and interrogated as a rioter on 1 August 2013.
7. It was not plausible that there would be a cycle of the appellant being detained and then released to continue working in the army, as if the appellant was genuinely believed to be a member of the Muslim Brotherhood he would have remained in detention and not released to resume a position of potential influence within the military.
8. The grounds of appeal make multiple arguments. It is not necessary to address each of them because I am satisfied that there is a single error which fundamentally undermines the decision such that it will need to be made again. The error was succinctly summarised by Ms Kadic in her submissions in the following way: the appellant's consistent case has always been that the proceedings against him in Egypt are based on a false claim; that is, they are based on something that never occurred. It therefore follows that it is consistent with his account that the "Criminal Registrar" document is inconsistent with it.
9. In his submissions Mr Diwnycz acknowledged that he did not have a response to this point. He maintained, however, that the decision should stand because the judge gave sustainable reasons for not believing the appellant.

10. I agree with Mr Diwnycz that there were good reasons to not believe the appellant. In particular, I have no hesitation in finding that the judge was entitled to find it implausible that the appellant would be periodically detained and then released and on his release he would resume work in the military. This appears implausible whatever his role in the military but particularly so given that his evidence, as set out in his asylum interview (see question 21 of the second interview), was that he had a role working with new recruits. It seems remarkable that the military would put in charge of new recruits somebody who was at the same time being detained for involvement with or support for the Muslim Brotherhood. However, I cannot be confident that the same result would have been reached had the judge appreciated that the incongruity of the Criminal Registrar document with the appellant's account did not undermine - and in fact supported - his account of a false charge been brought against him.
11. I therefore find that there is a material error of law and set aside the decision.
12. I asked Ms Kadic and Mr Diwnycz to address me on whether the appeal should be remitted to the First-tier Tribunal or retained in the Upper Tribunal. Both were of the view that the appeal should be remitted given that the error relates to the appellant's credibility and for the appeal to be re-made all of the evidence will need to be considered afresh. I agree. The appeal will therefore be remitted to the First-tier Tribunal with no findings preserved.

Notice of Decision

The decision of the First-tier Tribunal is set aside.

The decision is remitted to the First-tier Tribunal to be made afresh by a different judge.

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.

Signed

D. Sheridan
Upper Tribunal Judge Sheridan

Dated: 24 February 2022

