



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2024-001851

First-tier Tribunal No: PA/54364/2023
LP/00348/2024

THE IMMIGRATION ACTS

**Decision & Reasons Issued:
On 1 July 2024**

Before

DEPUTY UPPER TRIBUNAL JUDGE GRIMES

Between

**M A
(ANONYMITY ORDER MADE)**

Appellant

and

Secretary of State for the Home Department

Respondent

Representation:

For the Appellant: Mr P Georget, counsel instructed by Simman Solicitors
For the Respondent: Mr D Clarke, Senior Home Office Presenting Officer

Heard at Field House on 11 June 2024

Order Regarding Anonymity

As this is a protection appeal, pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, the appellant is granted anonymity. No-one shall publish or reveal any information, including the name or address of the appellant, likely to lead members of the public to identify the appellant. Failure to comply with this order could amount to a contempt of court.

DECISION AND REASONS

Introduction

1. On 22 April 2024 First-tier Tribunal Judge Rhys-Davies granted permission to the appellant to appeal against the decision of First-tier Tribunal Judge Chana promulgated on 26 February 2024.

Background

2. The appellant, aged 18 (date of birth 5 August 2005), is a national of Egypt. He arrived in the UK on 14 October 2022 and claimed asylum on 17 October 2022. On 4 July 2023 the respondent made a decision refusing the appellant's application for asylum and humanitarian protection in the UK.
3. The respondent accepts that, for the purposes of his asylum claim, the appellant's date of birth is 5 August 2005, as determined by the Hampshire County Council. The respondent further accepts that the appellant is a national of Egypt.
4. The appellant claims that he has a well-founded fear of persecution upon return to Egypt. He claims to fear an influential family in Egypt. He claims that his uncle was dealing in the sale of weapons and was killed following a conflict.
5. The First-tier Tribunal Judge found that there are many inconsistencies in the appellant's account which go to his credibility. The judge highlighted inconsistencies within the appellant's evidence, for example in relation to the death of his uncle [21-22]; the influence of the family he claims to fear [23-24]; his account of the shooting incident [25]; the lack of evidence as to the appellant's claimed gunshot wound [28]; and the fact that the family were unable to find the appellant in Cairo [30-33]. The judge considered that the appellant's credibility was further damaged by his failure to claim asylum in Italy [34].
6. The First-tier Tribunal Judge concluded that the appellant does not have a well-founded fear of persecution in Egypt for any reason and is not entitled to humanitarian protection. The judge considered the medical evidence, finding that the appellant's feelings of suicidal ideation are not genuinely held, and that in any event he will be able to access medical care in Egypt. The judge was not satisfied that there would be very significant obstacles to the appellant's integration into Egypt (paragraph 276ADE). The judge considered Article 8 outside of the Rules finding that the appellant had not established that there would be interference with his right to family life. The judge found that any interference with the appellant's private life is outweighed by the public interest.

The grounds of appeal

7. It is contended in ground one that the judge made a number of errors of law in assessing the appellant's credibility. It is contended that the judge failed to consider whether it was appropriate to give the appellant the benefit of the doubt given his age; he was 15 at the time he claims to have been targeted in Egypt and 17 at the time of his interview by the respondent. It is contended that the judge failed to give herself any self-direction regarding the appellant's age when assessing his credibility. It is further contended that the judge failed to identify the evidential basis for a number of material findings and failed to consider the appellant's explanations before making adverse credibility findings. It is further contended that the judge failed to deal with the relevant country background evidence in relation to the Al-Deeb family before rejecting the appellant's case that the family is famous and influential in Egypt.
8. It is contended in ground two that the judge erred in failing to give adequate reasons for rejecting the country expert evidence from Dr Hafidh. It is submitted that the judge failed to justify the finding that the expert did not make an objective analysis or the finding that the expert report reads as an advocacy for the appellant's case.

9. Permission to appeal was granted on the basis sought. In granting permission, in relation to ground one, Judge Rhys-Davies further considered it arguable that the judge failed to take account of the appellant's age at the time of the alleged events and interviews when assessing his credibility and considered it arguable that the judge should have specifically considered the application of the Joint Presidential Guidance Note No 2 of 2010: "Child, vulnerable adult and sensitive appellant guidance" given that the appellant had been in social services care, however he noted that it was unclear whether this was canvassed before the judge. It was further considered arguable that the judge failed to consider the appellant's explanation as to the shooting incident. In relation to ground two it was considered arguable that the First-tier Tribunal Judge failed to give adequate reasons for rejecting the expert evidence.
10. The respondent did not file a Rule 24 response, but at the hearing Mr Clarke indicated that the appeal was opposed.
11. At the hearing I heard detailed submissions from both representatives. At the end of the hearing, I reserved my determination.

Decision on error of law

Ground one

12. It is contended that the judge erred in a number of respects in assessing the appellant's credibility.

Ground one - paragraph 3 i

13. It is not in dispute that the appellant was a minor when in Egypt, when he came to the UK, and when he was interviewed. He was a minor when the asylum decision was made. However he turned 18 a month later.
14. There is no request in the ASA before the First-tier Tribunal to treat the appellant, who was by then 18 years old, as a child or vulnerable witness in accordance with the Presidential Guidance. There is nothing in the ASA raising the case of KS (benefit of the doubt) [2014] UKUT 00552 (IAC) or making any submission as to the application of the benefit of the doubt to the appellant who was by then 18 years old. Whilst it is asserted at paragraph 3 i in the grounds that reliance was placed in the oral submissions on KS there is no record to that effect in the judge's decision. There is no record of the representative's submissions or affidavit from the representative from the hearing in the First-tier Tribunal to confirm that this was a specific submission before the judge.
15. In any event, the judge was clearly aware of the appellant's age at the time of the claimed incidents in Egypt and at the time of his arrival in the UK. She made reference to his age at several points in the decision including paragraph 2 where she noted that he entered the UK when aged about 15; paragraphs 32 and 33 where she referred to his age in the context of his account; and paragraph 34 where she specifically took account of the appellant's age when considering his explanation for not claiming asylum in Italy.
16. Reading the decision as a whole I find that it is adequately clear that the judge was aware of the appellant's age at the time of the claimed events in Egypt and his arrival in the UK and interviews in the UK. There were no specific submissions

relating to the appellant's age at these material times. Ground 1 (paragraph 3 i) is not made out.

Ground one - paragraph 3 ii

17. I accept Mr Clarke's submission that the judge's reference at paragraph 24 of the decision to the background evidence is a reference to the material linked at footnote 10 at page 9 of the decision letter which gives information about the Al Deeb family. I accept that reference to Faris Al Deeb is a typographical mistake and not a material error.
18. In my view the judge was entitled to find it not credible that a lawyer would tell the appellant that it would be illegal to obtain a copy of the police report [29] in the absence of background evidence to support this evidence. As submitted by Mr Clarke, the burden is on the appellant to establish his case. The judge was entitled to make the findings she did in the absence of evidence to support this submission.
19. This ground is not made out.

Ground one - paragraph 3 iii

20. The judge was entitled to find that there were inconsistencies in the appellant's account as to the shooting [24]. The judge noted that the appellant said at paragraph 7 of his witness statement '*One man showed his gun and took a shot. My uncle protected me, and he was killed*', whereas in oral evidence he said that many shots were fired. The note of counsel's record of cross-examination accords with the judge's record of evidence [16-19] and her decision. Contrary to the assertion in the grounds, the judge considered the appellant's explanation and rejected it. Ground one paragraph 3 iii does not disclose a material error of law.

Ground one - paragraph 3 iv

21. Contrary to the contention in the ground, the judge considered the evidence about the A Deeb family at paragraphs 23-24 of the decision. As set out above the judge was clearly referring here to the evidence linked at footnote 10 at page 9 of the reasons for refusal letter. This ground discloses no material error of law.

Ground one - paragraph 3 v

22. It is contended that the judge confused issues relating to her assessment of sufficiency of protection with her assessment of the appellant's credibility at paragraphs 26-27 of the decision. However the judge was clearly assessing the appellant's account of the actions of the police after the alleged shooting [26] and the appellant's account of his report to the police [27]. The judge was obliged to consider the appellant's evidence on these matters in assessing the appellant's credibility. I reject the assertion that she conflated the credibility assessment with the issue of sufficiency of protection. Having found the appellant's account not to be credible, the judge did not need to go on to consider sufficiency of protection. This ground is not made out.

Ground one - conclusion

23. The appellant has not established that there are material errors in the judge's assessment of credibility as contended in ground one.

Ground two

24. It is contended in ground two that the judge erred in her approach to the expert report.
25. The judge considered the expert report at paragraphs 36-37 of the decision. However she also made reference to the experts report at paragraph 23 where she said that the expert evidence *'does not provide any references as to the identity of [the Al Deeb] family'*. That finding is not challenged in the grounds. However this too is part of the judge's consideration of the expert report. In my view this goes to the heart of the matter at issue in this appeal. It is the appellant's case that this is a well-known family in Egypt. However the instructions to the expert (at paragraph 6 of the expert's report) do not request any analysis of the appellant's claims about the reach and influence of this family. The remarks made by the expert about the Al-Deeb family at paragraphs 26-27 of the report could be considered to be speculative. The judge was therefore entitled to conclude as she did at paragraph 23.
26. The judge further considered the expert report at paragraphs 36-37. The judge noted that the expert report opines that reading the appellant's account and the country evidence, the claim is generally consistent with the situation in Egypt and is plausible. Therefore the judge was fully aware of the content of the expert report. She further noted that the expert states that blood feuds exist in Egypt and that *'that is a matter which is not disputed'*. Again this shows that the judge considered the content of the report in the context of the issues to be determined.
27. At paragraph 37 the judge stated that she placed little reliance on the expert report *'to demonstrate that the appellant cannot return to Egypt'*. It is clear from this that the judge did not attach limited weight or disregard the report in general but that she attached limited weight on the conclusions as to the appellant's ability to return to Egypt. In my view it was open to the judge to conclude as she did that the report did not assist in assessing the risk to the appellant on return from the Al Deeb family.
28. There is no material error in the judge's approach to the expert report. Therefore ground two is not made out.

Notice of Decision

29. The decision of First-tier Tribunal Judge did not involve the making of an error of law and I uphold it.

A Grimes
Deputy Judge of the Upper Tribunal
Immigration and Asylum Chamber

25 June 2024