



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

Appeal Number: PA/05756/2017

THE IMMIGRATION ACTS

**Heard at Field House
On 2nd November 2018**

**Decision & Reasons
Promulgated
On 15 November 2018**

Before

DEPUTY UPPER TRIBUNAL JUDGE ZUCKER

Between

**FA
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr P Haywood, Counsel instructed by Fisher Jones
Greenwood (Newcomen Way)

For the Respondent: Mr C Avery, 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.

1. The Appellant is a citizen of Egypt whose date of birth is recorded as 17th March 1999. He made application for international protection as a refugee. That was refused by the Secretary of State on 2nd June 2017 against which decision he appealed. The appeal was heard at Taylor House on 15th December 2017 by Judge of the First-tier Tribunal Cameron. Judge Cameron dismissed the appeal on all grounds. Not content with that decision by Notice dated 29th January 2018 application was made for permission to appeal to the Upper Tribunal. The application was refused in the first instance by Judge of the First-tier Tribunal Saffer on 14th May 2018.
2. There was then a renewed application to the Upper Tribunal. That application came before Upper Tribunal Judge Gleeson on 24th September 2018. She granted permission. She found it arguable that there were inconsistent findings at paragraphs 94 to 97 compared to that which appears at 101; that the judge had failed to take account of the Appellant's risk as a member of his family being a particular social group; that the risk to those associated with the Muslim Brotherhood being at the core of the Appellant's claim did not require high level activity to trigger risk; that too much weight had been placed on the timing of events; and in general, that it was not probative of the case against the Appellant that although there was evidence of widespread ill-treatment, he was not personally ill-treated whilst in detention. In other words, Judge Gleeson came to the view that it was arguable that the entirety of the decision was flawed. In the event I need go no further than looking to paragraph 94 compared to 101.
3. It was the Appellant's case that he was at risk from the Muslim Brotherhood through imputed political opinion because of his father's activities, it being part of the Appellant's case that his father was arrested in July 2015. That was part of the core of the case.
4. At paragraph 94 of the decision the judge says:

"I do take note of the fact that the appellant's father was arrested in July 2015 and that the family visited him in presumably August 2015 at the prison. ..."

At paragraph 104 the judge states:

"Taking into account all the evidence available I do not find the appellant's account to be credible. It is not credible that the authorities would arrest his father in July 2015 and allow the family to visit in August 2015 yet then seek to find out where the appellant's father and brothers were in November 2015 when the authorities had shown no interest whatsoever in the family in the intervening months".

5. Mr Avery invited me to find that what the judge meant to say at paragraph 94 was that he, that is to say the judge, had taken account of what the Appellant was saying in relation to the arrest.
6. It is not possible in my judgment to reconcile paragraph 94 with 104, and in any event, it is not clear what the judge is saying. Those circumstances go to the very core of the Appellant's case. Mr Avery, though he did not concede the appeal, very reasonably accepted that there was on the face of the decision the inconsistency which I have identified.
7. For the avoidance of doubt, I find that there is a material error of law because it is not clear what the judge was saying. If in fact the judge was accepting that the Appellant's father was arrested in 2015, then it was necessary for the judge to go on to consider why there was that arrest and what flowed from it. The decision is fundamentally flawed.

Decision

8. In the circumstances the appeal is allowed. The decision is set aside to be re-made in the First-tier Tribunal, that being the course of action which both parties agree is appropriate and which I also agree is appropriate given that the case is beyond cure in the Upper Tribunal.
9. This matter therefore shall be remitted to the First-tier Tribunal to be heard at Taylor House by a judge other than First-tier Tribunal Judge Cameron or First-tier Tribunal Judge Saffer. There will be an Arabic (Middle Eastern) interpreter and the case will have a time estimate of four hours unless otherwise directed by the Resident Judge.

Signed

Date 9 November 2018



Deputy Upper Tribunal Judge Zucker