



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: AA/03638/2013

THE IMMIGRATION ACTS

Heard at Field House
On 28 April 2014
Oral Determination given following the Hearing

Determination Sent

Before

UPPER TRIBUNAL JUDGE CRAIG

Between

REMON SAMY MAHROUSE SAMY

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms B Poynor, Counsel instructed by Brighton Housing Trust
For the Respondent: Ms A Everett, Home Office Presenting Officer

DETERMINATION AND REASONS

1. The appellant is a national of Egypt who was born on 11 August 1989. He appeals with leave against a decision of First-tier Tribunal Judge Cooper who had dismissed his appeal against the respondent's decision refusing to grant him asylum.

2. This appeal came before me on 28 November 2013 when I found for reasons which are set out within the decision that I made following that hearing that Judge Cooper's determination contained an error of law such that the decision would have to be re-made by the Upper Tribunal. At the time of the hearing I was aware that there would shortly be country guidance issued in respect of the position of Coptic Christians in Egypt and that decision was promulgated prior to my giving the decision following that hearing formally. That decision is reported as *MS (Coptic Christians – Egypt)* CG [2013] UKUT 611. I gave directions for this appeal to be re-listed before me with a view to subsequently listing the appeal for a further hearing in light of the guidance given in *MS*. I also noted that the respondent had been provided with a further copy of an expert report from Dr George which had been served but which had been missing from the respondent's files.
3. The appeal then came back before me on 27 February 2014 and on that occasion it was re-fixed for hearing again before me on today's date. This was a date on which the Tribunal had been informed that Ms Poynor would be available to represent the appellant. I also recorded in these directions that on behalf of the appellant Ms Poynor undertook to file a skeleton argument with the Tribunal and I directed that this should be served by no later than seven days before the hearing. I do not know whether these directions were in fact served and it may be that something went astray here because in the event the skeleton argument on behalf of the appellant was not received by the Tribunal until it was handed to me during the course of the hearing. It was however a useful document and it has assisted me. I can summarise the appellant's position very briefly and it is as follows.
4. He is a Coptic Christian and it was accepted by the First-tier Tribunal Judge at paragraph 69 that he had a desire to preach his religion "thus, potentially, giving him a higher profile than a simple practising member of the church".
5. However the judge, while accepting that the appellant would be at risk on return to his home area which is Alexandria, considered that he could relocate to Cairo. As I recorded in the decision which I gave following the error of law hearing I consider that the judge failed to have any regard to the consequence of the decision of the House of Lords in *HJ (Iran)* to the effect that in this case if the only reason why on return to Egypt this appellant would not proselytise was because of his fear of persecution if he did, that in itself amounted to persecution. Also I considered that the finding made by the First-tier Tribunal Judge at paragraph 82 of his determination that the appellant could safely relocate to Cairo was not adequately reasoned in light of the background material which had been put before him and which had been relied upon on behalf of the appellant to the effect that a Coptic Christian such as this appellant who wished to proselytise would not be safe anywhere in Egypt. As I have already stated above the country guidance has now been given in *MS* and the purpose of this hearing was to consider, in light of that country guidance and on the basis of the preserved findings which had been made taken with any subsequent evidence, this appellant could safely relocate. My starting point has to be the preserved findings which are effectively that the appellant is an honest witness whose credibility is accepted and who wishes to

proselytise. The real issue is as to the extent to which he wishes to proselytise and in light of this whether he could be safe anywhere in Egypt.

The Hearing

6. I heard evidence from the appellant who relied on three subsequent statements he had made on which he was cross-examined. There was also before me a bundle prepared on behalf of the appellant subsequent to the previous hearing which included a new expert report from Dr Mariz Tavros dated 23 April 2014 as well as other material. I also heard submissions on behalf of both parties. As I recorded all the evidence and the submissions contemporaneously and these are contained within my Record of Proceedings I shall not refer below to everything which was said to me during the course of the hearing but only to such of the evidence and submissions as are necessary for the purposes of this determination. I have however had regard to everything which was said to me during the course of the hearing as well as to all the documents which are contained within the file whether or not these are referred to specifically below.
7. The key part of the evidence was contained in an answer given by the appellant to a question he was asked in cross-examination by Ms Everett which was what he meant when he said he would “start preaching” on return to Egypt. He said (and I record that his evidence was given with the assistance of an Arabic interpreter, the appellant having confirmed that he was satisfied that he and the interpreter understood each other) that “it should be outside of the church, because I want to preach Christianity not just to Christian people but to non-Christians”.
8. It should be recorded and there is no challenge to the appellant’s evidence that the course which he is currently taking in this country is one which will lead to him becoming a missionary. In other words this is not a Coptic Christian who will just get on with his life within his own community but a person who not only has a desire to become a Minister but also someone who has a positive wish to preach his religion to non-Christian people wherever he might be and if he were to return to Egypt to non-Christians in that country.
9. On behalf of the respondent Ms Everett with her customary fairness accepted that there were preserved findings in this case and that the appellant’s evidence had been that he desired to proselytise. In cross-examination Ms Everett had sought to give some context to what that might actually mean but the appellant had said that he wished to practise to non-Christians. She accepted that in light of the country guidance decision of this Tribunal in *MS* it was difficult to argue that that would not put him at risk anywhere in Egypt. She did not feel that she could usefully add anything by way of further submissions.
10. On behalf of the appellant Ms Poynor said that what she had attempted to do in her skeleton argument was to demonstrate how the guidance given in *MS* was relevant

in this case especially in light of the decision in *HJ (Iran)*. This is a person who would wish to proselytise on return and he would be at risk anywhere in Egypt if he did.

Discussion

11. It is not necessary for the purposes of this determination in light of my other findings to go into the arguments advanced in Dr Tavros's expert report in any detail. However, I will record that it is unfortunate that in the course of this report he seemed to refer to the guidance given in *MS* as "the Immigration Rules" and that it is not apparent either that he had been informed that the appellant had already been found to be a credible witness who would be at risk in his home area. However, by reason of my other findings as I have already noted, it is not necessary for me to consider his report in any detail.
12. I have regard to the findings and guidance contained within *MS* which are summarised in the head note. The relevant country guidance contained within that head note can be summarised as follows:
 - "3. *On the evidence before the Upper Tribunal, the following are particular risk categories in the sense that those falling within them will generally be able to show a real risk of persecution or treatment contrary to Article 3, at least in their home area:*

...

 - (iii) *those accused of proselytising where the accusation is serious and not casual;*
 - (iv) *those accused of being physically or emotionally involved with a Muslim woman, where the accusation is made seriously and not casually.*
 6. *If a claimant is able to establish that in their home area they fall within one or more of the risk categories identified in 3 (i)-(iv) above or that they come from an area where the local Coptic population faces a real risk of persecution, it will not necessarily follow that they qualify as refugees or as beneficiaries of subsidiary protection or Article 3 ECHR protection. That will depend on whether they can show they would not have a viable internal relocation alternative. In such cases there will be need for a fact-specific assessment but, in general terms, resettlement in an area where Islamists are not strong would appear to be a viable option."*
13. Very fairly on behalf of the respondent (and I would have and do in any event so find) Ms Everett accepted that although the Tribunal in *MS* perhaps did not go as far as it could in terms of guidance, it would be hard to say that in light of these findings it could properly be argued that somebody who had been found to be a proselytising Coptic Christian could safely relocate elsewhere within Egypt. In my judgment Ms Everett was right not to seek to argue the contrary.

14. The fact specific assessment which is necessary in this case leads me to a finding that this appellant first of all is as has already been found a credible witness whose evidence should be accepted as truthful. That is not of course to say that his interpretation of everything that happened to him must necessarily be accepted (and the First-tier Tribunal Judge in some respects considered that he was not correct when he thought that he had been specifically targeted in Cairo) but clearly there is in light of the general credibility findings which have already been made, no reason why this Tribunal should doubt that if returned to Egypt he would genuinely wish to proselytise in the way that he has said, that is to say he would wish to preach to non-Christians because that is what he sees as his mission in life. In those circumstances, given the country situation within Egypt as discussed in *MS*, I agree with Ms Everett that this appellant must be considered to be at risk on return anywhere in that country. While if he did not preach that risk would be lessened or even removed, as the only reason why he would not preach would be for fear of persecution if he did, in light of the decision of the House of Lords in *HJ (Iran)* that in itself would amount to persecution such that his return would be in breach of his protected rights. It follows that this appeal must succeed and I so find.

Decision

I set aside the determination of the First-tier Tribunal as containing a material error of law and substitute the following decision:

The appellant's appeal is allowed on asylum grounds.

Signed:

Date: 30 May 2014

Upper Tribunal Judge Craig