



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

Appeal Number: AA/06811/2014

THE IMMIGRATION ACTS

**Heard at FIELD HOUSE
On 27TH JANUARY 2015**

**Decision & Reasons
Promulgated
On 2ND FEBRUARY 2015**

Before

**DEPUTY JUDGE OF THE UPPER TRIBUNAL
MS GA BLACK**

Between

**MR. Y W
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: MR J PLOWRIGHT (Counsel)

For the Respondent: MR E TUFAN(Senior Home officer presenting officer)

DECISION AND REASONS

1. This is an appeal by the Appellant of a decision by the First-tier Tribunal (Judge CM Courtney) in which he dismissed the appeal on asylum, human rights and humanitarian protection grounds, concluding that there was an internal flight alternative.

2. The Appellant is a citizen of Sudan. His date of birth is 15th January 1978. He claimed asylum on religious grounds, that as a Coptic Christian he faced a real risk of persecution if returned to Sudan.
3. The Tribunal found the Appellant to be credible as to his religion and that he had been arrested, detained and ill treated in Sudan by police officers on four occasions. His account of his exit from Sudan was found implausible [74] and his claim to have been accused of adultery was accepted, but found not to be linked to his religion [69].
4. The Tribunal found that “he has been the subject of localised adverse interest on the part of certain police officers in Omdurman and Khartoum, who perceived him as a trouble maker and as susceptible to bribery. I am persuaded to the lower degree of proof that the Appellant has been mistreated in detention as he describes, and that this mistreatment was exacerbated by the fact that he is a Christian.”[77 & 82] The Tribunal found there was a risk of repetition and an enhanced risk in Khartoum and Omdurman. [85]
5. Thereafter the Tribunal considered internal relocation [85-92]. It considered that having found that the risk was from certain religiously intolerant police officers in his locality, this risk could be avoided by moving to the northern part of Sudan, specifically Port Sudan where he has a brother, or to Dongola. He found the Appellant to be at the same level of risk as all other church-going Coptic Christians in that area [91].

Grounds

6. The Tribunal failed to consider if the Appellant can live safely if he relocated to an different area and whether there is the risk of repetition of ill treatment in light of aggravating factors.
7. The Tribunal erred by failing to consider the risks faced by the Appellant in the event that he displayed religious icons at home and at work, and distributed humanitarian aid, which would lead him to be singled out for religious reasons.
8. In **MG (Christians, including Coptic Christians) Sudan CG [2006] UKAIT 00047** it was accepted that there was no sufficiency of protection for Coptic Christians once singled out [33].
9. The Tribunal failed to take into account that the factors which made the Appellant vulnerable continued to exist and would not alter on relocation.

Permission

10. Permission was granted by FJT JM Holmes on 12 December 2014 who concluded that “Arguably the Judge’s analysis of the risk faced upon return was inadequate.” Judge Holmes expanded upon the Appellant’s grounds and considered that the Tribunal did not pose the question, or answer it,

as to whether a direct return to Port Sudan was possible or safe for practical reasons and/or whether the Appellant was at risk at the airport.

11. Judge Holmes stated that it was arguable that the Tribunal was obliged to consider if the Appellant would face the same treatment in that locality as he had in Khartoum, assuming that he pursued his faith and lived his life in the way he wished. The Tribunal failed to consider why similar problems would not arise in the area of relocation as a result of pursuit of his faith.

Hearing

12. I heard submissions from both representatives, the details of which are set out in the record of proceedings. Mr Plowright elaborated on the grounds and the observations made by the permitting Judge. He relied on the CG decision of **MG** at [40] which appeared to be reflected in the Tribunal's decision. He submitted that the Appellant was at risk of repetition for the same reasons as in **MG**. He further submitted that the Tribunal failed to hear specific evidence from the Appellant as to how he would pursue his religion and his life if relocated to Port Sudan. There was no evidence to show that he would not be at risk in any other city or area in Sudan. The Appellant came to the attention of the authorities through his work, he was identifiable as a Coptic Christian and had been accused of spreading Christianity when distributing aid parcels.
13. Mr Tufan submitted that the Appellant's circumstances were exacerbated by his religion and that this was not the main cause of the persecution which was localised to his home area. **MG** was outdated. There was no evidence that the Appellant would face any risk in Port Sudan or elsewhere in the north. Many Christians were identifiable from a tattoo. There was no background evidence to show any risk to Coptic Christians in Sudan and the burden was on the Appellant to show that it was not safe. Port Sudan was a Christian area and a major port. It was reasonably likely that the Appellant could travel there safely. The Appellant faced no ill treatment at the airport when leaving Sudan.

Discussion and decision

14. The Tribunal's decision is detailed and well considered and clearly establishes that it fully engaged with the issues and evidence relevant to this appeal. However, I am satisfied that the grounds pursued by the Appellant that the Tribunal's treatment of the internal flight alternative was inadequate, given the findings made and having regard to the Country guidance decision of **MG**, have merit. The Tribunal deals with the issue of internal relocation very succinctly in two paragraphs 91 and 91.
15. The Tribunal did not consider the risk of repetition in other areas having found that the risks faced by the Appellant were localised. It failed to consider the risk of repetition in Port Sudan or elsewhere in light of the circumstances in which the Appellant had come to the attention of the authorities in Khartoum, as a trouble maker and thereafter his religious

identity led to ill treatment by religiously intolerant police officers. The Upper Tribunal in **MG** took the view that once a person had come to the attention of the authorities (for whatever reason), persecution for religious reasons became a real risk.

Error of law decision

16. I am satisfied that this amounts to a material error of law. I set aside the decision. The findings of fact made by the Tribunal are preserved.

Remaking decision

17. Both Mr Plowright and Mr Tufan relied on submissions already made. Mr Plowright submitted that there was no need for a further hearing unless the Upper Tribunal considered it necessary to hear further evidence from the Appellant about Port Sudan. Mr Tufan agreed.
18. Having regard to the findings of fact and objective evidence before the First-tier Tribunal I am satisfied that the Appellant comes within the category of person envisaged in **MG** who having come to the attention of the authorities would then be at risk of persecution in Sudan [33&36] and where there is no internal flight alternative. He did not advance his case on the basis that he has been prevented from openly expressing or pursuing his religion. I take into account his characteristics and vulnerability which led to his coming to the attention of the authorities, together with the evidence that in the north of Sudan Coptic Christians are isolated and there is no sufficiency of protection available [33]. Although the Tribunal found that the risk of persecution was localised, it failed to consider that once the Appellant had come to the attention of the authorities, some of whom were religiously intolerant, he faced the same risk of persecution elsewhere. The three factors found by the Tribunal at [85] as significant to risk of persecution are not in my view specific or limited to the Appellant's home area. Indeed the Tribunal found that the Appellant's arrest on the first occasion followed from a dispute with his neighbour over land, the second occasion was in circumstances where having been approached to pay money to security forces, he then refused to take down religious icons in his shop and on the third occasion he came to their attention for refusing to buy a gun. In **MG** the Appellant was arrested when he refused to buy out of date food. I find no basis on which to conclude that the same circumstances would not arise elsewhere for the Appellant. The Appellant would continue to work, practice his religion and carry out similar activities as before. I take the view that this Appellant clearly fits into the type of person as described by Peter Verney, the expert in **MG** [14]. He stated "General hindrance and petty harassment of Christians could easily develop into the persecution of particular unfortunate individuals." There is no evidence that religious intolerance exists in state officials located in only the south or Khartoum. Further the Upper Tribunal in **MG** clearly had in mind that fact that in areas (unlike Khartoum) where Coptic Christians are few in number, their isolation increases the risks that they face. The current background

evidence shows that Coptic Christians remain a “dwindling community” facing persistent harassment which in certain cases develops into full blown persecution. The Tribunal cited a report [44] on religious freedom in Sudan dated 2011 which identified the north as an area where Christians suffered mistreatment “primarily as a result of the entrenchment of a strict interpretation of Sharia law in the north.” Further reference was made to the fact that churches in Khartoum were considered to be targets by the government and that prosecutions of proselytisers had been stepped up. Whilst the evidence fails to establish a general risk of persecution for Coptic Christians per se, I am inclined to the view that there is no recent evidence to show that **MG** no longer applies. In addition the COIR refers to impunity of security forces as a current problem together with abuse of powers and routine torture in police stations.

19. Accordingly I remake the decision.

20. I allow the appeal on asylum and human rights grounds.

Notice of Decision

21. The appeal is allowed on asylum grounds and human rights grounds.

Direction Regarding Anonymity - rule 13 of the Tribunal Procedure (First-tier Tribunal) (Immigration and Asylum Chamber) Rules 2014

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 their 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

Date 29.1.2015

Judge GA Black
Deputy Judge of the Upper Tribunal

TO THE RESPONDENT **FEE AWARD**

No fee is paid or payable and therefore there can be no fee award.

Signed

Date 29.1.2015

Judge GA BLACK

Deputy Judge of the Upper Tribunal