



**Upper Tribunal  
(Immigration and Asylum Chamber)  
PA/02260/2016**

**Appeal Number:**

**THE IMMIGRATION ACTS**

**Heard at Birmingham Employment  
Tribunal  
on 3 May 2017**

**Decision Promulgated  
on 16 May 2017**

**Before**

**UPPER TRIBUNAL JUDGE HANSON**

**Between**

**MSAAM**

**(ANONYMITY DIRECTION MADE)**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr Mohzam of Burton & Burton Solicitors (Dale Street)

For the Respondent: Mr Mills – Senior Home Office Presenting Officer

**DECISION AND REASONS**

1. This is an appeal against a decision of First-tier Tribunal Judge Parkes ('the Judge') promulgated on 7 October 2016 who dismissed the appellant's appeal against his application for a grant of international protection and/or leave to remain in the United Kingdom based on his family and private life.

**Background**

2. The appellant is a national of Egypt. The Judge noted relevant immigration history and that the basis of the claim for international protection was a real risk on return as the appellant will be perceived to be a supporter of the Muslim Brotherhood.
3. The appellant provided written and oral evidence in which he stated he first felt in danger in Egypt when on holiday in 2014, as a result of which he returned to the UK early. He claims to have only experienced problems in Egypt after the political situation changed. He experienced no problems leaving Egypt as he claims a friend facilitated his exit.
4. Whilst in Egypt the applicant's maternal uncle was detained. The appellant claimed his problems started after he returned to the United Kingdom when the police and army were looking for him.
5. The appellant claimed he had been interrogated on a number of occasions between 2005 and 2010 whilst still in Egypt, but had not been arrested. He had lived in his father's house where his wife now lived to avoid "trouble".
6. The appellant told the Judge he had been interrogated because he was a lawyer to the Muslim Brotherhood. He thought the interrogations were in 2006 at the start and end of the year. He left Egypt in 2007. He continued to act for his uncle between 2007 and 2010 as it was a different government from the current government, as the current government came to power at the end of 2014.
7. The Judge records the appellant claiming in his oral evidence that he spoke to his father regularly and that his own lawyer had obtained written evidence from his father and that in relation to matters, his father spoke to him, but the appellant claimed he concealed things from him but advised him not to travel. When pressed had said that it was in 2015 after the verdict had been passed against him possibly May or June. The appellant told to Judge his wife and child had returned to Egypt at the start of 2015 and his father told the police they had separated to stop them harassing his family members. Other aspects of the evidence are recorded by the Judge at [8 - 15] of the decision under challenge.
8. The Judge sets out his factual findings at [16 - 25] which can be summarised in the following terms:
  - The recent political history of Egypt is not disputed [16].
  - There is central confusion in the appellant's chronology. When he last travelled to Egypt he left early on 2 May 2014 stating he did so because he felt in danger but although there had been a military coup the presidential elections had not taken place and at no stage in his evidence did the appellant say what it was that happened during his short time in Egypt that made him concerned about his safety [17].
  - The appellant confirmed his father only told him that he was being sought after he had left and so it was not at all clear what it was that made him leave. The situation was already unstable and nothing in that time appears to have added to it [17].

- It is not clear why, if the appellant was concerned about government roundups undertaken without warrants, and he knew he was being sought, he would let his wife and child return to Egypt from the safety of the UK [18].
- With the appellant safely in the UK it is not obvious why his father would conceal from him the fact of the legal proceedings and decisions against him [19].
- If the appellant needed to remain in the UK in order to be safe, information from his father would have bolstered any resolve to keep away from Egypt. It was not seen how keeping it from the appellant would have helped and, in the context of his father telling the authorities that the appellant and his wife separated, it could not make his position worse [19].
- The documents in the Home Office bundle were provided at an early stage but are difficult to verify and could have been produced on a word processor, with vague references to being in danger, and the need to keep silent, they do not provide any solid information about the matter that the Judge needs to decide upon [21].
- Very late production of the translations of the documents made verification difficult. Given the appellant's friend is a lawyer and living in the situation the appellant says would cause him problems, it is not clear why the documents dating from 2015 were not provided sooner. Sending the documents earlier would not have made the appellant's position in the UK worse and could have assisted him in his case [22].
- Considering the guidance in *Tanveer Ahmed*, and having considered the documents in light of the other evidence in the case, the Judge was not satisfied the documents are reliable and attached no weight to them [23].

9. The Judge sets out his conclusions in relation to the protection and human rights claims in [24] and [25] in the following terms:

24. While I would accept that the Appellant is fearful of the situation in Egypt for the reasons given above I do not accept that his account of past events relating to him and his family is reliable. In summary he has not explained what it was that made him leave Egypt in May 2015, why he would have sent his wife and child back there or why his father or friend did not provide him with information knowing he was safe in the UK and could have used the information. It was accepted by the Appellant's representative that this case turned on credibility but the Appellant has not provided a clear or reliable account that would allow a finding that he would be in danger on return.
25. Given the limited time that the Appellant has spent in the UK he cannot succeed under paragraph 276ADE and with his wider family in Egypt his links to that country are clearly strong. He has qualifications that he can use and there is nothing in the evidence to show that he could not return to work to support himself and his family. There is nothing that would justify a grant of leave under article 8 outside the Immigration Rules having regard to section 117A and B of the 2002 Act.

10. The appellant sought permission to appeal which was initially refused by another judge of the First-tier Tribunal but thereafter granted on a renewed application to the Upper Tribunal on the basis it was found the appellant's grounds were on balance arguable, that in the absence of a finding as to whether or not the appellant is a supporter of the Muslim Brotherhood in Egypt, the conclusions as to the documentation may be flawed. The judge granting permission, Upper Tribunal Judge Allen, recognised difficulties in the appellant's case but found the matters raised in the appellant's grounds to be arguable.

### **Error of law**

11. The respondent's reasons for refusal letter summarised the core of the appellant's case at [4] in the following terms:

"You fear persecution in Egypt because you acted as the solicitor for your uncle, Dr. WME-S. You had a contract with him that permitted you to work as his representative "in all civil matters in front of all kinds of courts" as well as appeals. You are also permitted to go to the polling stations on his behalf. This is relevant in your claim as Dr E-S stood for office in the 2005 elections as a supporter of Muslim Brotherhood. You came to the UK on 19 January 2010. Dr E-S was arrested on 24 November 2013 and he has not been released. You returned to Egypt in 2014 and you state that you stayed in hiding while you were there. During your stay in Egypt you attempted to visit your uncle but the Egyptian authorities denied you access to him. You left Egypt on 2 May 2014 to return to the UK and did not experience any problems on your departure from the country. However, on 5 May 2014 the authorities came to your family home looking for you. Your father paid a bribe for them to go away. Your family have warned you not to return to Egypt.

12. The appellant at [11] of his witness statement dated the 7 September 2016 claims that he will be tortured and killed by the government in Egypt because he was a supporter of the Muslim Brotherhood and had participated in demonstrations. In his substantive asylum interview dated 8 January 2016, in reply to question 20 asking the appellant what he did during the 10 to 12 weeks when voting was taking place, the appellant mentioned his uncle's support of the Muslim Brotherhood, that he was with his uncle who was the candidate in that election, and "even when I am with a Muslim Brotherhood I am not a terrorist".
13. Mr Mozham submitted on the appellant's behalf that this was the issue before the First-tier Tribunal and had indeed been considered in the Reasons for Refusal letter where the decision-maker has written at [18 - 23] the following:

18. It is not accepted that the Egyptian authorities have been looking for you following your departure from Egypt on 2 May 2014. Your sole involvement with the Muslim Brotherhood was while you were instructed by your uncle to act as his legal representative. This was before you left Egypt in 2010.

19. Reference is also made to the document "Country Information and Guidance Egypt: Muslim Brotherhood" which states;

"Although the government is able, under the penal code, to detain anyone suspected of membership of the Muslim Brotherhood, arrests and detentions have primarily been of high and mid-level leaders and those taking

part in protests against the government which have become violent. Journalists affiliated or perceived to be sympathetic to the MB have also been targeted. The Egyptian government, given the sheer scale of the number of members and supporters, is unlikely to have the capacity, capability or interest in seeking to persecute everyone associated with the MB. There is no evidence to suggest that merely being a member of, or in particular, a supporter of the MB will put a person at risk of persecution”.

20. It is noted that you do not state that you are a high or mid-level supporter of the Muslim Brotherhood nor do you claim that you have been involved in violent demonstrations. You do not claim that you were a journalist. Indeed, you state that you are “like a bird” because you wish to be free of political affiliations. It is further noted that you have been in the UK for the last five years and therefore would not have attracted the attention of the Egyptian authorities. It is again considered that your claim that you would be targeted by the Egyptian authorities because of your connection to your uncle is not supported by the objective evidence.
21. It is noted that you returned to Egypt in 2012, 2013 and did not experience any difficulties. You also returned to Egypt in 2014. It is therefore concluded that you have no political profile in Egypt. It is noted that you claimed that you tried to see your uncle in April 2014 but the authorities would not permit you to see him.
22. It is noted that you left Egypt on your own passport. The US State Department Report 2015 states;
 

“The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights, albeit with some exceptions, including the handling of potential refugees and asylum seekers. The Civil Aviation Authority, in cooperation with the Ministries of Justice and Interior, maintained a “no-fly” list that prevented some defendants in court cases from fleeing the country. MB members and other wanted individuals appeared on the list after July 2013”.
23. It is therefore concluded that if you were of any interest to the authorities as person associated with the Muslim Brotherhood it was open for the Egyptian authorities to place you on a “no-fly list” but they clearly did not as you were allowed to leave the country with no difficulties. It is therefore considered that your claim is not externally consistent with the objective evidence regarding departures from Egypt.
14. The appellant’s representative submitted that at [16 – 24] the Judge made no reference to why the appellant was not at risk as a result of the connection he relied upon. It was accepted at [18] that the Judge mentioned the Muslim Brotherhood but submitted the Judge has erred by making no mention of the fact the appellant is a supporter of this group and has a profile that will place him at risk on return. It was argued that this is a fundamental finding that needed to be made and that failure to do so impacted upon all other findings made by the Judge. The key issue of whether the appellant was a supporter of the Muslim Brotherhood and other issues are interrelated such that the Judge needed to make a finding upon whether the appellant will be at risk for this reason, as claimed.
15. It is also asserted by the appellant’s representative that the appellant gave evidence he attended a demonstration in the United Kingdom which was also relevant as it was a demonstration against the current

- government. The representative specifically refers to paragraph 8 of the appellant's witness statement to this effect and submits the Judge failed to adequately deal with this aspect of the evidence.
16. The appellant focuses very much upon the subjective aspects of his case but fails to address the issue of a real risk to a person associated with the Muslim Brotherhood set out in [19] of the country report and referred to above. The Judge clearly rejects the appellant's claim to be at risk as a result of any previous association with his uncle based upon an imputed political opinion as a supporter of the Muslim Brotherhood sufficient to place him at risk on return and, in light of the evidence made available to the Judge, such a finding that the appellant had not established a sufficient real risk was a finding fully open to the Judge on the evidence.
  17. The core of the appellant's case is as recorded by the Judge, namely an imputed risk as the lawyer for his uncle, but the Judge gave adequate reasons for rejecting the appellant's account that he was at risk which have not been shown to be infected by arguable legal error.
  18. Even if the appellant is a supporter of the Muslim Brotherhood country material does not establish a real risk for all supporters without connections or a profile that could lead to arrest and detention, where such a person could be subjected to ill-treatment. The Judge did not find such had been made out.
  19. Mr Mills accepted that the sur plas element of the case was raised in the statement and in the respondent's reasons for refusal letter and that the Judge did not find that the appellant had made out that he possessed a profile that would place him at risk on return.
  20. Although the Judge fails to specifically mention any sur plas activities it is clear the Judge was aware of the basis of the appellants claim which would have been considered prior to the Judge arriving at the conclusions referred to above.
  21. In the Reasons for Refusal letter, when dealing with the sur plas activities, it is written:
    28. Photographs: You have submitted a number of photographs taken while you are in Egypt that show you in the company of unnamed individuals. It is not clear who these individuals are or their significance to your claim for asylum. It is noted that you state that you were not politically active in Egypt and were, in fact, politically neutral. Therefore, given that the photographs were taken while you were in Egypt before you came to the UK in 2010, it is concluded that they cannot be considered to be evidence that you would be recognised as an opponent of the current government, because of your previous associations.
    29. You have also submitted photographs of yourself at demonstrations in the UK at which you have protested against the present government of Egypt, led by President Al Sisi. It is accepted that you may have attended such demonstrations while in the UK. However, you have submitted no evidence to suggest that the Egyptian authorities have either the capacity or will to monitor those who have attended peaceful demonstrations, either inside Egypt or without.
    30. Social media: You have submitted a number of screenshots from social media sites such as "Facebook". Some of these have been translated into English. It is understood that you have submitted these documents to establish a profile

as a person opposed to the current regime in Egypt. Reference has again been made to the US State Department Report 2015 which states;

“The government did not generally restrict or disrupt access to the Internet or censor online content, albeit with some exceptions. The constitution protects the right to privacy, including on the Internet. The constitution guarantees the confidentiality and “inviolability” of postal, telegraphic, and electronic correspondence, telephone calls, and other means of communication. There may not be confiscated, revealed, or monitored except with a judicial order, only for a definite period, and only in cases defined by law. The constitution prohibits the government from “arbitrarily” interrupting, disconnecting, or depriving citizens seeking to use all forms of Internet communications. Law enforcement agencies occasionally restrict or disrupted individuals access to the Internet and monitored Internet usage, relying on a law that only allows targeted interception of communications under judicial oversight and for a limited period of time and does not permit indiscriminate mass surveillance. The public prosecutor occasionally prosecuted individuals accused of posting “insulting” material”.

“The government attempted to disrupt the communications of terrorist groups operating in northern Sinai by cutting telecommunication networks: mobile services, Internet, and sometimes landlines. Cuts continued on an average from 6 AM to 6 PM. Networks were again fully accessible at approximately 8 PM and sometimes later. This disrupted operations of government facilities and banks. The law obliges Internet service providers and mobile operators to allow government access to government databases, which can allow security forces to obtain information about activities of specific customers, which could lead to lack of online anonymity. There were no reports of widespread denial of service or blocking of social media sites during the elections and demonstrations that occurred during the year. Social media sites, such as Twitter and Facebook, widely used during demonstrations and throughout the presidential election period and included widespread criticism of the government and security forces”.

“According to a 2013 World Bank study, 49.6% of the population used the Internet and 3.3% of households subscribe to fixed broadband services”.

“On January 23, a court sentenced an accountant to a three-month suspended sentence and a fine of 10,000 Egyptian pounds (LE) (\$1400) for “insulting the Interior Ministry”, “misusing the Internet”, and harassment for tweeting a video critical of the Ministry of Interior in March 2013”.

“In October, two students who ran pro-MB pages on Facebook were arrested for allegedly inciting violence against the police and army”.

31. It is therefore understood that that while there have been incidents of the Egyptian government pursuing individuals who have incited violence, social media users such as “Twitter” and “Facebook” have been used to express disapproval of the authorities. You have submitted no evidence to indicate that the Egyptian authorities would have either the means or the will to identify you as an opponent of the regime from your use social media sites in the UK.
32. One of the messages appears to be from your parents and states “Receiver: M we are glad your dad and me that you deleted your Facebook page. We have our peace of mind now, instead of having people searching for you every little time. Please, if you love us, delete the second Facebook of you. However, please stop, we are in danger. If you love us and you love your daughter stay totally silent, M you are away, we are the ones that stayed back”.

33. Although not explicitly stated, it is understood that this document has been submitted to support your claim that the authorities have been looking for you following your visit to Egypt in May 2014. However, it is noted that the date of the message is illegible and therefore it is not known when this message was sent. In addition, the author has not stated who is looking for you. It is not considered that the short message can be considered to be evidence that the Egyptian authorities were looking for you.
22. The lack of evidence to show the appellant has a profile such as that identified in the country material as liable to place him at risk on return or to show that as a result of his Sur Place activities he would have come to the adverse attention of the Egyptian authorities as a result demonstrations or entries on social media, such as to create a real risk on return, mirrors the finding of the Judge that the appellant has failed to make out that he would be in danger on return.
23. There is also an additional element of some considerable importance in relation to the evidence given to the Judge which is that notwithstanding the appellant claiming that the authorities have an adverse interest in him formed after he left Egypt for the UK on 2 May 2014, the appellant felt it was sensible or appropriate to send his wife and child back to Egypt from a country in which they were safe, out of reach of the Egyptian government, and able to remain together as a family unit. This is arguably not the action of a person facing a credible real risk of ill-treatment for himself or any family member for the reasons claimed.
24. The Judge also noted that the quality of the evidence was poor with the appellant not explaining what it was that made him leave Egypt when he last did, why he sent his wife and child back, or why his father or friends did not provide him with information about the situation in Egypt knowing he was safe in the UK.
25. As noted by the First-tier Judge who initially refused permission to appeal *"the grounds, as drafted, do not raise any arguable material error of law, and amounted to no more than a disagreement with the finding that the Judge made that the appellant had relied upon a false story. The Judge was perfectly entitled to conclude that if the appellant had genuinely believed that he was suspected of being a supporter of the Muslim Brotherhood that he would not have let his wife and child return to Egypt from the UK. The Judge applied the correct burden and standard of proof, and gave brief but adequate reasons for his conclusion upon the reliability of the Appellant's evidence. It was well open to him to find on the evidence that the appellant's accounts was false, and that he could return to Egypt safely"*.
26. It can be clearly inferred from the findings of Judge Parkes that he did not accept the appellant's core claim or accept as credible the appellant's assertion that he faced a real risk on return for any of the stated reasons. This includes a rejection of the appellant's account to be at risk as a result of an imputed political opinion based upon any association with, or support for, the Muslim Brotherhood. This is the core finding that underpins the other findings of the Judge which have not been shown to be affected by arguable legal error material to the decision to dismiss the appeal.

**Decision**

**27. There is no material error of law in the First-tier Tribunal Judge's decision. The determination shall stand.**

Anonymity.

28. The First-tier Tribunal made an order pursuant to rule 45(4)(i) of the Asylum and Immigration Tribunal (Procedure) Rules 2005.

I make that order pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008).

Signed.....

Upper Tribunal Judge Hanson

Dated the 15 May 2017