



**Upper Tribunal  
(Immigration and Asylum Chamber)**  
PA/04846/2016

Appeal Number

THE IMMIGRATION ACTS

Heard at Newport  
On 23<sup>rd</sup> February 2018

Decision and Reasons Promulgated  
On 27<sup>th</sup> February 2018

Before

DEPUTY UPPER TRIBUNAL JUDGE PARKES

Between

H M F A T  
(ANONYMITY DIRECTION MADE)

Appellant

And

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

For the Appellant: Ms L Profumo (Counsel, instructed by Migrant Legal Project (Cardiff))  
For the Respondent: Mr I Richards (Home Office Presenting Officer)

DETERMINATION AND REASONS

1. The Appellant is a national of Egypt. He claimed asylum on the 18<sup>th</sup> of November 2015 on the basis of his support for the Muslim Brotherhood and the interest that the authorities had in him resulting from his activities. The claim was rejected and his appeal dismissed by First-tier Tribunal Judge Frazer in a decision promulgated on the 23<sup>rd</sup> of November 2016. The Appellant sought permission to appeal which was granted by the Upper Tribunal on the 19<sup>th</sup> of September 2017.
2. A significant feature of the Appellant's case was a letter sent to the Appellant said to be from a friend of the Appellant's father. The Judge considered the letter in paragraphs 34 and 44 of the decision. In paragraph 34 the Judge noted that he did not have the original letter or the envelope in which it had been sent. In paragraph 44 the Judge rejected the letter as being unreliable.
3. Before the hearing the Home Office Presenting Officer and the Appellant's representative spoke with each other and agreed a mutual position on the error of law issue. It was agreed that as the

Home Office had been in possession of the original letter but had made submissions on the basis that negative findings could be made in its absence the findings made were made on an erroneous basis. Given the central importance of the letter to the Appellant's case it was accepted by the Home Office that the submissions made by the Home Office Presenting Officer to the First-tier Tribunal had been sufficiently misleading that the findings made as a result amounted to an error of law and that the decision would have to be set aside and the appeal remitted to the First-tier Tribunal for re-hearing. Ms Profumo agreed.

4. Accordingly on the basis of the agreed position of the parties I find that the First-tier Tribunal erred in the approach taken to the supporting documentation was such that it erred and that the decision cannot stand. The appeal is remitted to the First-tier Tribunal to be re-heard with no findings preserved. It should not be listed before Judge Frazer.

## CONCLUSIONS

The making of the decision of the First-tier Tribunal involved the making of an error on a point of law.

I set aside the decision.

The appeal is remitted to the First-tier Tribunal for re-hearing with no findings preserved, not before Judge Frazer.

## Anonymity

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

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

## Fee Award

I make no fee award which remains an issue for the First-tier Tribunal at the conclusion of the appeal.

Signed:



Deputy Judge of the Upper Tribunal (IAC)

Dated: 23<sup>rd</sup> February 2018