



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: PA/00488/2017

THE IMMIGRATION ACTS

Heard at Field House
On 17 November 2017

Decision & Reasons Promulgated
On 19 December 2017

Before

DEPUTY UPPER TRIBUNAL JUDGE DAVEY

Between

J K A
(ANONYMITY DIRECTION CONTINUED)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms E Mitchell, counsel instructed by Sutovic & Hartigan
For the Respondent: Mr D Clarke, Home Office Presenting Officer

DECISION AND REASONS

1. The Appellant, a national of Egypt, date of birth 15 February 1999, appealed against the Respondent's decision to refuse an asylum claim and recognition as a refugee made on 30 December 2016.
2. His appeal against that decision came before First-tier Tribunal Judge S Turquet (the Judge) who, on 24 April 2017, dismissed the appeal on all grounds but made an anonymity direction which is continued. That

adverse decision led to the grant of permission by First-tier Tribunal Judge Osborne on 11 September 2017. The Respondent made a Rule 24 response on 28 September 2017 which, in short, sought to argue that there was no material error in the Judge's decision.

3. The grounds of appeal are extensive and varied. So far as I am concerned, without doing injustice to the elegance of the drafting, the significant grounds seem to me to be ground 4 (in dealing with procedural fairness) and ground 2, (the treatment of the expert country evidence). Grounds 2 and 3 go to the core element of the claim relating to the assessment of psychiatric evidence and evidence relating, to put it broadly, to the Appellant's mental and physical health and the risks he faces on return.
4. The essential claim is that by reason of events that arose, the Appellant remains at risk either as a result of an honour killing or alternatively, a blood feud, without effective protection in the home area and elsewhere in Egypt were he to be returned. The additional element is the Appellant's mental health and the impact on him on removal.
5. For the purposes of this decision I have considered with great care the extensive arguments that have been run for and on behalf of the Appellant by Ms Mitchell. In short, I take the view that the Judge sought to decide the various issues that arose, and by and large she did so. It seemed to me that the Judge's errors are first that she took into account issues which had not been directly raised. She also misjudged the significance of the nature of the screening interviews and differences arose with the AIR as being of such significance so as to dispose of issues of credibility.
6. Secondly, it seemed to me that the Judge erred in addressing the background evidence and particularly the expert evidence as to the level

of risks that might be faced from such type of killing as he feared. Part and parcel of those adverse conclusions I concede did lead at least to the significant appearance that having failed to satisfy the Judge that the lower standard of proof had been met. The rejection of the claim because of unspoken matters in the screening interview, bearing in mind the Appellant was at the time of the screening interview a child and just an adult at the point of the asylum interview, I conclude that there was the appearance of unfair adverse findings made against the Appellant's credibility.

7. Before looking at all the evidence in the round the Judge reached adverse conclusions on the claim at a time when the principal objections were certainly, not put, or alternatively not raised by the Judge so as to encourage submissions to address the important issues.
8. I bear in mind particularly that the age of the Appellant was at all times pertinent to the claimed events and pertinent in the context of mental health to the kind of issues that could arise in his care and since he had been in the United Kingdom. For these reasons, whilst as I say I think the Judge did do her very best to try and address the issues raised, it did not become apparent in the reasoning that she achieved her aims but rather, having adversely concluded upon the Appellant's account and having rejected it, she, consistent as she would say it therewith, rejected other evidence or drew adverse conclusions from the absence of other evidence to buttress the conclusion that the Appellant had not suffered in the manner claimed and was not a potential victim of a blood feud.
9. If I have not done total justice to the submissions made by either side to it simply because it seems to me at this stage unnecessary. There were procedural errors of law and certainly arguable errors in relation to the assessment of the evidence and the proper application of the case law. In the circumstances it seemed to me that this is a case where the

Original Tribunal's decision cannot stand. Regrettably, the only fair and reasonable course for the proper disposal of this matter is that it should be returned to the First-tier Tribunal to be re-started all over again. That is the consequences the parties have submitted to me of this matter. Whilst I would have preferred to deal with the appeal in the Upper Tribunal, since the whole decision is going to be set aside, it seemed to me that the right course in accordance with the Presidential Direction, paragraph 7.2, is that the matter returns to the First-tier Tribunal. It is a great pity that this should need to be the case but it seems to me fairness demands it.

NOTICE OF DECISION

The appeal is allowed to the extent that the matter is to be remade in the First-tier Tribunal

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 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 24 November 2017

Deputy Upper Tribunal Judge Davey