



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: PA/07987/2017

THE IMMIGRATION ACTS

Heard at North Shields
On 22 May 2018

Decision & Reasons Promulgated
On 24 May 2018

Before

DEPUTY UPPER TRIBUNAL JUDGE J M HOLMES

Between

E. M.
(ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms Rogers, Solicitor, Immigration Advice Centre Ltd

For the Respondent: Mr Diwnycz, Home Office Presenting Officer

DECISION AND REASONS

1. The Appellant is a national of Egypt, who entered the UK illegally, and claimed asylum on 16 May 2016. That protection claim was refused on 3 August 2017. His appeal against that refusal came before the First-tier Tribunal at North Shields when it was heard by First-tier Tribunal Judge Moran. The appeal was allowed on asylum and human rights grounds in his decision promulgated on 18 January 2018.
2. The Respondent's application for permission to appeal was granted by First tier Tribunal Judge Pedro on 5 February 2018 on all grounds.

3. When the hearing of this appeal was called on before me, the parties confirmed that no application to introduce evidence under Rule 15(2A) of the Upper Tribunal Procedure Rules had ever been made, and no Rule 24 Reply had been lodged. Thus the matter comes before me.
4. There are two grounds, as drafted. The first is a challenge to the adequacy of the reasons given by the Judge for his decision, and the second asserts that the decision in relation to the ability to internally relocate within Egypt was irrational or perverse. Before me Mr Diwnycz accepted that the complaint advanced in the second ground was not assisted by references to Albania, and that the Judge had properly engaged with the Respondent's case [30-1]. Thus this ground, as drafted, fell well short of the high standards for such a complaint; Miftari. I need say no more about it.
5. The real thrust of the first ground is a disagreement with the Judge's decision to accept the opinion evidence of Dr Stein as an expert witness. That was however a decision that was well open to him, having set out Dr Stein's relevant qualifications and experience [21]. If the Respondent had wished to seek to rebut the evidence of Dr Stein, then it was always open to her to do so, and she had taken no steps to do so. Thus no objective evidence had been offered to the Judge by the Respondent to demonstrate a picture inconsistent with that which he had painted. No adjournment had been sought upon receipt of his opinion evidence in order to instruct an alternative expert.
6. It follows that it was open to the Judge to accept Dr Stein's un rebutted opinion evidence as reliable, and as evidence to which he could attach significant weight. Since the Respondent had conceded the Appellant's claim that he was at risk of harm as a result of his involvement in a family blood feud, the issues for the Judge were narrow. The Judge was not satisfied that internal relocation was viable, and he gave adequate reasons for that conclusion; MD (Turkey) [2017] EWCA Civ 1958. He was also not satisfied that there was adequate state protection against the risk, and he gave adequate reasons for that conclusion too. All of the findings were sourced in the evidence, and in particular the expert evidence of Dr Stein. The reality is that the Respondent's complaints over the adequacy of the reasons, are no more than a disagreement with the Judge's assessment of the weight that could be given to the evidence.
7. In the circumstances, and notwithstanding the terms in which permission to appeal was granted, I therefore dismiss the Respondent's challenge, and confirm the decision to allow the appeal on all grounds.
8. The anonymity direction previously made is continued.

Notice of decision

The decision promulgated on 18 January 2018 did not involve the making of an error of law sufficient to require the decision to be set aside. The decision of the First tier Tribunal to allow the appeal is accordingly confirmed.

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 his 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 22 May 2018

Deputy Upper Tribunal Judge J M Holmes