



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

Appeal Number: PA/00285/2019

THE IMMIGRATION ACTS

**Heard at Field House
On 18 July 2019**

**Decision & Reasons Promulgated
On 24 July 2019**

Before

DEPUTY UPPER TRIBUNAL JUDGE FROMM

Between

O A
(ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: None

For the Respondent: Ms K Pal, Senior Home Office Presenting Officer

DECISION AND REASONS ON ERROR OF LAW

1. The appellant appeals with the permission of the Upper Tribunal against a decision of Judge of the First-tier Tribunal Mill dismissing his appeal against a decision of the respondent, dated 20 December 2018, refusing his protection claim.
2. The appellant is a citizen of Egypt. He claims to have left Egypt on 17 May 2015, aged 14, and to have arrived in the United Kingdom on 19 July 2017, aged 16, after spending time in Italy, Germany and Belgium. He entered the United Kingdom clandestinely and made an appointment at the Asylum Screening Unit on 7 August 2017. He

claimed that his father was a member of the Muslim Brotherhood and that he was killed during a demonstration in 2012. He said his brother, Saleh, had escaped from Egypt and fled to Turkey after being conscripted and ill-treated. The appellant said he left because he was to be forced to undergo military service as well.

3. The respondent considered that the appellant's account of his father's membership of the Muslim Brotherhood and his death were "unsubstantiated" and, ultimately, rejected them. The respondent considered the background evidence of military service in Egypt and noted there were limited reports of the abuse of conscripts. The appellant's account of his brother's conscription and abuse was considered "unsubstantiated" and also rejected. The respondent noted that Egyptian men are required to register for the draft and to be available for service between the ages of 18 and 30. The chances of being called up were about 1 in 7. It was accepted the appellant could be called up for military service. However, it was not accepted the appellant would be at a real risk of ill-treatment if he were called up.
4. Judge Mill heard the appeal on 11 February 2019 at Hatton Cross, when the appellant was three months short of his 18th birthday. The appellant was represented by a solicitor and gave evidence. The judge made a finding that it was not plausible that the appellant was called up for military service, as he claimed, at the age of 14. There was no objective evidence that this happens (see paragraph [27]). The judge went on to consider whether the appellant was sought by the authorities because of his father's political activities. He concluded that it was plausible that the appellant's father had been a member of the Muslim Brotherhood but he rejected the claim that the appellant or any member of his family had faced problems as a result (see [38]). Finally, he considered whether the appellant might be at risk if he were called up and found he was not. In fact, he said he regarded the appellant as an "economic migrant".
5. Permission to appeal was refused by the First-tier Tribunal but granted on renewal by Deputy Upper Tribunal Judge Mailer.
6. The respondent has not filed a rule 24 response.
7. The appellant attended the hearing unrepresented. His former solicitors have come off record and the appellant confirmed he no longer has legal representatives. He was accompanied to the hearing by a support worker and a social worker. He is now 18 years of age.
8. Ms Pal argued that there are no material errors in Judge Mill's decision.
9. The appellant is not legally qualified and could not make submissions on whether the decision contains errors of law. However, he was keen to impress on me that his former solicitor had misunderstood him and

he had never claimed that he had been called up. He had been talking about his brother. He said his solicitor had used a Sudanese interpreter and they had not understood each other. He did not remember so much about the interpreter at his Home Office interview, although he said they spoke a different dialect.

10. Having carefully considered the grounds and submissions, I find there is no material error of law in Judge Mill's decision. My reasons are as follows.
11. Ground 1 argues the judge failed to take into account the appellant's age when making his credibility findings and had, in effect, done no more than pay lip service to the Joint Presidential Guidance Note No 2 of 2010. I reject that.
12. The judge stated the appellant's date of birth in the first paragraph of his decision. He referred to the fact the appellant is a minor and that he had applied the Guidance Note at [7]. He was plainly conscious of the appellant's age because he expressly considered the plausibility of a 14-year old being called up. Beginning at [20], the judge set out the Home Office's policy for assessing claims by minors and he again reminded himself that the appellant is a minor at [22]. When referring to the fact the appellant's account was "very skeletal indeed", the judge expressly stated he took into account the appellant's age.
13. There is no merit at all in Ground 1. The judge was plainly conscious of the appellant's age both at the time the claimed events took place and at the date of the hearing.
14. Although not raised in the grounds, one part of the decision might be open to some criticism as "perfunctory" to the extent the judge relied on section 8 at [40], even though he referred to the appellant's age, in the light of the decision in KA (Afghanistan) v SSHD [2019] EWCA Civ 914. However, I do not think this was capable of making a difference to the outcome. The judge had already given numerous cogent reasons for making an adverse credibility finding and the section 8 matter was merely added on at the end of the list of reasons.
15. Ground 6 might link to this. It argues the judge speculated about why the appellant did not apply for asylum in Germany without finding out about the appellant's knowledge of the possibility of claiming asylum there. I do not find this challenge is made out. The judge noted the appellant was in Germany for an extended period and also that he had contact with the authorities there. As a minor, it can safely be assumed that the authorities would have given him information about his options.
16. Ground 2 argues the judge erred by failing to apply the correct test in Sepet [2003] UKHL 15. I am perplexed as to how this ground could have been drafted in the terms it was and how permission to argue it

was granted. At [42] the judge referred to the case and summarised the guidance given as to the circumstances in which a requirement to undergo compulsory military service or punishment for failing to complete military service will give rise to persecution. The judge correctly summarised the test and applied it to the facts found. I cannot see any error in his approach.

17. The grounds appear to argue the judge erred by failing to have regard to background evidence that the Egyptian military committed acts contrary to the basic rules of human conduct. Reference is made to Appendix A to MS (Coptic Christians) Egypt CG [2013] UKUT 00611 (IAC), which is a list of background reports used in that case. It is sufficient to point out that that case was not provided to the judge, was not mentioned in the appellant's solicitor's skeleton argument and not raised in submissions. The country guidance provided related to Copts and the judge did not err by failing to consider the case, let alone for failing to look up the references given in the Appendix A.
18. Plainly, the evidence before the judge did not permit of any answer than the one he gave, which was that none of the "scenarios" described in Sepet applied. The evidence did not show that conscripts would be required to take part in activities of the kind suggested.
19. Ground 3 challenges the judge's decision to give no weight to the letters of support provided by the appellant's mother and brother, who are said to be living in Turkey. What the judge did was consider the evidence in the round and to give reasons for rejecting it. There is no error at all in that approach. Moreover, his reasons are sound ones. He said the timing of the letters, after the claim had been refused, was surprising. He noted the letters were typed in English and there was no certificate of translation. He found the contents of the letters "superficial". He found the contents of the letters did not accord with the appellant's account. It is clear those inconsistencies were significant one, as the judge explained at [35] and [36].
20. There is no merit in Ground 3.
21. Ground 4 highlights a curiosity in the judge's reasoning found at the end of paragraph [36] of his decision:

"The Appellant's brother also makes reference to having received a letter from the Army to carry out conscription and when he saw this letter he escaped. The Appellant, of course, claims that his brother received that letter before he left. This again is entirely at odds and conflicts with the Appellant's claim."
22. The judge is there discussing the letter from the appellant's brother. The grounds argue the judge's approach is "irrational". I agree it is not clear from these two sentences what the inconsistency amounted to. However, if this is an error, it is not enough to bring down the entire edifice of the judge's reasoning, which is otherwise sound. I cannot speculate about what the judge meant to say but it is striking

that the account given in the letter of the appellant's brother of escaping after receiving his call-up is wholly inconsistent with the account provided by the appellant that his brother escaped after being conscripted and ill-treated (see. For example, comment on paragraph 56 of the refusal letter in the appellant's statement at page 21 of the appeal bundle).

23. Ground 5 argues the judge erred with respect to his assessment of the risk to the appellant by association with his father, who he found may have been a member of the Muslim Brotherhood. The judge should have applied paragraph 339K and found that past persecution was a strong indicator of future risk.
24. I agree with Ms Pal that this ground overlooks the fact the judge found as fact that there had been no repercussions for any of the appellant's family arising from the father's activities and the appellant had remained in Egypt for at least two years after his father's death. The appellant was only 14 when he left the country and has no political profile. I fail to see any error in the judge's approach to future risk.
25. The judge did not make a material error of law in any of the ways suggested in the renewed grounds.
26. As mentioned, the appellant was concerned about the way his case was presented by his solicitor. It is clear the judge was under the impression the appellant was claiming to have been called up at the age of 14 because he expressly rejected this at [27]. The claim makes more sense if the appellant had been talking about his brother. The appellant's first statement and interview record can certainly be read as meaning the appellant wished to avoid military service, without suggesting he had actually been called up.
27. However, if the judge did misunderstand the claim in that limited respect, the error could not be said to have been material. He carefully analysed the claim about the appellant's brother being persecuted and rejected it for cogent reasons. He accepted the appellant might be called up in the future but found he would not be persecuted if he were. Those were findings he was entitled to make on the evidence.

NOTICE OF DECISION

The Judge of the First-tier Tribunal did not make a material error of law and his decision dismissing the appeal on all grounds shall stand.

Anonymity

The First-tier Tribunal made an anonymity direction which I continue.

Signed

Date 18 July 2019

A handwritten signature in black ink, consisting of a stylized 'N' followed by a horizontal line with a small peak in the middle.

Deputy Upper Tribunal Judge Froom