



**Upper Tribunal
(Immigration and Asylum Chamber)
PA/02860/2019**

Appeal No:

THE IMMIGRATION ACTS

**Heard at Glasgow
on 21 November 2019**

**Decisions and Reasons
Promulgated
on 26 November 2019**

Before

UPPER TRIBUNAL JUDGE MACLEMAN

Between

A M

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr S Winter, Advocate, instructed by Maguire, Solicitors
For the Respondent: Mr A Govan, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. The appellant is a citizen of Egypt, aged 26. He sought asylum in the UK on 11 January 2018. The competent authority decided on 11 January 2019 that he was the victim of human trafficking. The respondent refused his asylum claim for reasons set out in a letter dated 8 February 2019.
2. The respondent held that in Egypt the appellant would not be at risk from his Algerian traffickers, and declined to accept that the Egyptian authorities had detained him from October 2010 to January 2011, when he said he escaped in a large-scale breakout, or would have any interest in him on return.
3. The appellant appealed to the FtT. Judge M MacKenzie heard his case on 17 June 2019. In her decision, promulgated on 31 July 2019, she records that it was common ground that the case turned on the credibility of what the appellant said had occurred in Egypt.

4. The judge declined at [55] to accept that the appellant had come to the adverse attention of the authorities or that he fled the country 18 months later as a result, and dismissed the appeal.
5. The appellant's grounds of appeal to the UT are set out in his application dated 20 August 2019 under these headings:
 - 1 errors in relation to plausibility, (i) - (ii);
 - 2 impact of appellant's mental health issues; and
 - 3 inadequate reasons / insufficiency of evidence, (i) - (iv).
6. On 6 September 2019 FtT Judge Loke granted permission:

It is arguable, by a narrow margin, that notwithstanding the acknowledgement of the appellant's mental health issues the judge failed to properly apply Presidential Guidance when making the assessment regarding the appellant's credibility.
7. Having heard the submissions of both representatives, I reserved my decision.
8. The argument on ground [1 i] was that the FtT applied its own perception of reasonability at [37] when finding that it was implausible that the Egyptian authorities would mistake a passer-by as having been involved in a demonstration, and that it would have been easy to confirm he had been on his way home from school.
9. Perhaps the Egyptian authorities are more likely than the UK police to include an innocent bystander when detaining a group of 50 - 100 people. It would be easy to check whether the appellant was on his way home from school, which is the observation the judge made; but perhaps those authorities are less likely to care whether such a mishap has occurred. However, this is a question of fact and degree. The appellant's criticism is in effect one of judging from a western perspective. There is no reason to think that the judge did not understand that the claimed events took place in the quite different context of Egypt. The appellant does not show that the judge's observations were untenable, allowing for that context.
10. Ground [1 ii] says that it was reasonable for the appellant to stay at home, but that takes nothing away from the judge's points at [39]: his ability to do so without coming to adverse notice suggests that the authorities had no interest in him, and if he and his family thought he was at risk, he could have relocated or left the country much earlier than he did. The rest of this ground is only insistence and disagreement on the facts.
11. Ground 2 does not criticise the judge's self-directions on the significance of mental health issues in assessing evidence. Those directions are detailed and impeccable.
12. The criticism is that the judge paid only lip service to the principles rehearsed. I find that reading not to be sustainable. The judge referred to the principles not only in general but in resolving the issues, for example

at [33, 43, 53 and 57]. The ground looks for the psychological evidence to be taken as explaining away all deficiencies in the evidence, which goes too far. Many of the shortcomings identified by the judge in the appellant's claim could not sensibly be attributed to his state of mental health; for example, the absence of contact from the authorities during the 18 months he remained at home.

13. Ground 3 (i) does not add to 1 (ii).
14. Ground 3 (ii) says that it was not a contradiction for the appellant's father to be able to arrange the departure of the appellant from the country but not the departure of the appellant's mother.
15. The appellant has not pointed to any meaningful distinction between the circumstances applying to him and to his mother. There may not have been a self-contradiction, but whatever the correct linguistic term might be, the judge was entitled to find the matter to tend against credibility.
16. Similarly, the observations at [40] on inconsistencies were open to the judge.
17. Ground 3 (iv) has force. The judge thought there was no reason, if the authorities suspected connections to the Muslim Brotherhood, for the appellant's mother and siblings not also to be detained. There does not appear to have been any evidence that detentions were necessarily so far-reaching. However, this is one reason among many, and not to the fore of the decision.
18. Summing up, ground [1 i] does not rise above disagreement; there is force in ground 3 (iv); ground 2, and the rest of the grounds, are not established. The decision does not err in evaluating the bearing of the mental health aspect on the quality of the evidence. Looking at the decision in the round, this is a clear and thorough evaluation of a weak claim which failed for many reasons, most of which have not been challenged. It is not shown to have involved the making of any error on a point of law, such that it ought to be set aside.
19. The FtT made an anonymity direction. The matter was not addressed in the UT. This decision is anonymised.



22 November 2019
UT Judge Macleman