



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2022-004640

First-tier Tribunal No: PA/54749/2021

THE IMMIGRATION ACTS

Decision & Reasons Issued:
On 10 May 2023

Before

UPPER TRIBUNAL JUDGE REEDS

Between MRM
(Anonymity direction made)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Islam, Counsel instructed on behalf of the appellant. For
the Respondent: Ms Young, Senior Presenting Officer

Heard at Phoenix House (Bradford) on 29 March 2023

DECISION AND REASONS

1. The appellant appeals, with permission, against the decision of the First-tier Tribunal (Judge Pickering “the FtTJ”) who, in a determination promulgated on the 14 May 2022 dismissed the appeal of the appellant on protection and human rights grounds.
2. The FtTJ did make an anonymity order and no grounds were submitted during the hearing for such an order to be discharged. Anonymity is granted because the facts of the appeal involve a protection claim.
3. Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, the appellant is granted anonymity. No-one shall publish or reveal any information, including the name or address of the appellant, likely to lead members of the public to identify the appellant. Failure to comply with this order could amount to a contempt of court.

The background:

4. The factual background to the appeal is set out in the decision of the FtTJ, the decision letter and the papers in the parties’ respective bundles. The

appellant is a national of Egypt. In or about December 2011 the appellant was learning to drive with a friend and the appellant accidentally hit a boy. He was admitted to hospital for 20 days and later died. The boy came from Said and the appellant claimed that he had been chased by the family since that time to get revenge. He said he could not approach the police as he did not believe they would help him as the people connected to the boy were from a particular family/tribe who were influential.

5. At the beginning of 2012 the appellant left Egypt for Libya where he remained for 3 or 4 years. The appellant was told by a friend in Tripoli that people had been asking for him and he believed that they were connected to the boy as they had a Saadi accent.
6. The appellant remained in Libya until September 2016 when he travelled to Italy by boat. He stayed there for one month but did not claim asylum. He travelled to France arriving in October 2016 and made a claim of asylum on 5 December 2016. After having made a claim for asylum he travelled to Belgium where he remained for 15 days and left for the UK entering clandestinely on 14 August 2017 and claimed asylum the same day.
7. The appellant was returned to France where he stayed for 5 days, and he travelled to Belgium where he stayed for a further 3 months. He entered Holland and was arrested in April 2018 and was returned to France by the Dutch authorities. After being released in France he travelled again to Belgium and remained there until travelling to the UK on 3 August 2018. He claimed asylum on the same day.
8. The basis of his claim asylum was that he feared return to Egypt on account of the boy's family who were influential and that he also feared that he will be considered as the deserter as he had not completed military service.
9. The respondent considered his claim in a decision taken on 16 September 2021. The respondent accepted the appellant's nationality and that he had avoided/evaded his military service. However for the reasons set out in the decision letter, the respondent did not accept that there was any incident that took place where a boy was injured and killed by the appellant as a result of the inconsistencies in the account. The respondent also considered that even if he had provided a credible account, the appellant could see protection from the authorities or live elsewhere in Egypt.
10. In relation to the accepted fact that the appellant has not undertaken his military service, in light of the country materials the appellant was likely to be exempt. The claim was therefore refused.
11. The appellant appealed the decision, and the appeal came before the FtTJ on 17 May 2022. In a decision promulgated on 24 May 2022, the FtTJ rejected the factual basis of the appellant's account and did not find that he had established that he would be at risk of harm on return to Egypt either arising from his claimed account of being involved in an accident or on account of having evaded /avoided military service. The FtTJ therefore dismissed the appeal on asylum and human rights grounds (Articles 2 and 3).

The appeal before the Upper Tribunal:

12. Permission to appeal was sought on behalf of the appellant which was granted by UTJ Jackson on 14 November 2022. At the hearing, Mr Islam of Counsel appeared on behalf of the appellant and Ms Young, Senior Presenting Officer appeared on behalf of the respondent. Mr Islam relied upon the written grounds of challenge which were supplemented by his oral submissions. Ms Young on behalf of the respondent also provided oral submissions in answer to the grounds of challenge. I am grateful to both advocates for the submissions they have given.
13. The grounds and submissions are summarised as follows.
14. Ground 1: At paragraphs 19 and 28 of the FtTJ's decision , it had been accepted that the appellant had avoided /evaded military service. It is submitted that the FtTJ failed to adequately address the persecutory risk that the appellant faced on return as result of him avoiding /evading military service. It is further submitted that the FtTJ has failed to adequately explain why the appellant would be exempt from military service on the basis that his younger brother had passed away , given that the Respondent's review accepted that the appellant was still eligible for a national service.
15. In his oral submissions Mr Islam submitted that the 2019 CPIN was not in the bundle of documents and the most up-to-date CPIN dated November 2022 referred to the exceptions to military service. Thus he submitted in terms of the decision letter there may have been further explanations and that it was his submission that the FtTJ should have explored the issue of exemption more fully. Both parties obtained a copy of the CPIN referred to in the FtTJ's decision and in the decision letter. Having done so, Mr Islam submitted that the exception to military service at 2.4.9 referred to "only sons" however the exception at 6.3.5 detailed other exceptions as did 6.3.1. He submitted that th FtTJ had failed to consider the details set out in paragraph 6.3 which related to the exceptions to military service, and this was material evidence before the FtTJ which the judge failed to consider, and this was a material error of law.
16. As to the concession made by counsel recorded by the FtTJ, Mr Islam was not able to provide further details, but he submitted that if the concession was made on the basis of the CPIN paragraph 2.4.9, the concession could not stand in the light of paragraph 6.3. He submitted that the concession could be withdrawn at a later stage if an error of law was found in the decision of the FtTJ.
17. Ground 2: the written grounds set out that between paragraphs 22 to 25 of the decision the FtTJ failed to give adequate reasoning in relation to whether the appellant had run over a boy and whether he was at risk of persecutory harm on return from people connected to the boy. Mr Islam submitted that in relation to the incident that took place this was the core of the appellant's claim and that he left Egypt because he had run over a boy. He submitted that the FtTJ did consider the evidence at paragraph 24 stating that "the appellant did not mention the incident with the boy and his screening interview

(SI)" however the screening interview dated 5/8/2018 at paragraph 4.1 did refer to the incident, stating that in November 2012, when I was trying to learn driving I accidentally hit someone who stayed in hospital for 20 days and passed away."

18. The respondent's bundle contained an earlier screening interview dated 16/8/2017 (see annex A) which did not refer to the account of an accident with a boy (see paragraph 4.1). Having considered that, Mr Islam submitted that the FtTJ failed to mention the screening interview dated 5/8/2018 where the appellant did mention the incident at paragraph 4.1 which caused him to leave Egypt therefore the FtTJ failed to consider this material evidence that was before her. He submitted that the FtTJ was required to consider all the evidence but only looked at the 2017 screening interview and not the subsequent one. He submitted that it was not known why there were 2 screening interviews but there were inadequate reasons given for the finding that the appellant not credible and was not involved in the incident. He submitted that there was not enough discussion of this by the FtTJ given the screening interview dated 5/8/2018 which clearly mentioned the incident as the core of his claim.
19. The written grounds in addition submit that the FtTJ failed to give adequate reasoning for finding that the appellant's evidence was vague and speculative regarding how influential the family the boy was in their ability to locate the appellant anywhere in Egypt.
20. As to ground 3, Mr Islam submitted that this ground was relevant to credibility and that if the FtTJ failed to consider the core of the appellant's claim concerning the incident with the boy, he invited the tribunal to find that the FtTJ failed to consider risk on return and that this was relevant to this issue. He submitted that the failure to consider material evidence before the FtTJ amounted to an error of law.
21. Ms Young behalf of the respondent confirmed that there was no rule 24 response but provided her oral submissions as follows.
22. Ground 1: dealing with the issue of the avoidance/ evasion of military service, she submitted that at paragraph 28 of the decision the FtTJ recorded a concession made by Counsel at the hearing that he accepted that there was at least a reasonable degree of likelihood that the appellant would be exempt from military service and by reference to paragraph 2.4.9 of the CPIN. She submitted that the CPIN was not in either of the bundles and whether the full CPIN was before the FtTJ is unknown however at paragraph 28 the FtTJ referred to the CPIN and quoted the decision letter. In the decision letter there were a number of paragraphs that cited the 2019 CPIN and replicated a number of passages from it.
23. As to the submission made which relied on paragraph 6.3, Ms Young submitted that this should have been before the FtTJ as part of the appellant's case. It had not been referred to in the appellant's skeleton argument ("ASA") and the document was not in either bundle. There was nothing in the decision to indicate the full document was before the FtTJ and therefore the FtTJ could not be criticised for failing to consider evidence that was not before her. Consequently there was no material error in relation to ground 1.

24. As to ground 2 and 3, Ms Young addressed those grounds together. She submitted that the FtTJ considered the issues between paragraphs 22 – 27 of the decision and in relation to the account given of the accident with the boy and on any fair reading of the decision it can be seen that this material fact was not accepted by the FtTJ. The FtTJ set out the issue at paragraph 22 as (a) did the appellant run over a boy? And this links back to the issues agreed between the advocates as recorded at paragraph 18.
25. Ms Young submitted that the FtTJ at paragraph 26 made findings “in the round” applying the lower standard of proof applicable and clearly addressed the issues between paragraphs 22 and 27. Paragraph 27 supports the submission that the FtTJ considered the issues between paragraphs 22 – 27. As to ground 3, the FtTJ was not required to consider the issue of internal relocation as the material facts were not accepted by the FtTJ.
26. She further submitted that whilst the grounds stated that the FtTJ failed to consider material evidence, the grounds failed to identify any evidence that the FtTJ had failed to consider. The FtTJ referred to the inconsistencies in the appellant’s account and her reasoning should be looked at alongside the evidence that had been before the FtTJ including that in the decision letter and the summary of the appellant’s case between paragraphs 4 and 8 of the decision and the ASA.
27. As to the screening interview, the FtTJ considered this at paragraph 24 where it was stated that the appellant did not mention the incident with the boy in his screening interview. However the FtTJ also stated “the appellant says that he was scared of the consequences” this was a matter raised in the evidence at the hearing. The FtTJ was not in error as the screening interview dated 16 August 2017 at paragraph 4.1 did not mention the incident with the boy. In light of the screening interview the FtTJ was not in error at paragraph 24, and it is of note that the screening interview now relied upon is dated one year later (2018) and for the 1st time the appellant raises this issue. Thus it is not sufficient to say that the FtTJ made a material error of law when considering the core issue of whether the appellant run over the boy.
28. In his reply, Mr Islam submitted that in relation to the concession if counsel did make the concession, he would make an application to withdraw the concession. When asked to clarify this submission Mr Islam submitted that he did not seek to withdraw the concession now but if an error of law was found in the decision of the FtTJ the concession would be withdrawn. He submitted that even if the document was not present it had been referred to in the decision letter and the FtTJ should have considered the whole document. The absence of the document did not mean that the judge should not have considered it. The issue of the “only son” exemption is referred to at paragraph 6.3 and therefore the failure to consider the aspect is a material error of law.
29. As to paragraph 24, the FtTJ did not mention about the later interview dated 5 August 2018 and there should have been more scrutiny as they were two screening interviews. There was no reference to the 2nd screening interview in the decision letter and it is central to the appellant’s claim. Mr Islam submitted that the screening interview dated 5 August 2018, the appellant’s evidence in his witness statement and the asylum interview set

out why he had left Egypt and that this man's family had been chasing him in Cairo and Alexandria. The FtTJ had failed to consider the relevant evidence and therefore this was a material error of law.

Discussion:

30. Dealing with ground 1, there is no merit in the submission that the FtTJ failed to adequately address the risk on return as a result of avoiding/evading military service. The FtTJ proceeded on the basis that it had been accepted that the appellant had avoided/evading military service and set out her assessment at paragraphs 28 -29 of her decision as follows:

"28. It is accepted that the appellant has avoided or evaded military service. The appellant's case is not put on the basis of conscientious objection. Military service is compulsory for men military service is compulsory for males aged 18 - 30 [Country Policy and Information Note Egypt: Military Service Version 2.0 November 2019 hereinafter CPIN quoted in RFRL]. The appellant accepts that he is an only son since his younger brother passed away at the age of 4. Mr Hussain accepted that there is at least a reasonable degree of likelihood that the appellant would be exempt from military service [CPIN 2.4.9].

29. Therefore, I do not find that the appellant is a risk on return to Egypt because of his avoidance of military service."

31. When addressing the issue of whether the appellant would be at risk on return the FtTJ plainly addressed the relevant issue of whether the appellant fell within any of the exceptions to military service. The issue of military service had been addressed in the decision letter between paragraphs 48 - 53 where the respondent and set out verbatim large sections of the relevant CPIN, Country Policy and Information Note Egypt: Military service Version 2.0 November 2019 (see paragraphs 50, 52, 53 and 55 of the decision letter). This set out the following:

2.4.6 Decision makers must first assess whether someone is reasonably likely to be eligible for military service. Those who are not eligible will not be able to establish a well-founded fear of persecution on this basis.

2.4.7 The law states that men aged 18-30 are required to complete military service in the armed forces, police forces or prison service. Women are not required to perform military service. There is no alternative to military service (see [General requirements for men](#) and [General requirements for women](#)).

2.4.8 The period of service ranges from up to 18 months for certain students to 36 months for everyone else (see [Length of service](#)).

Paragraph 2.4.9 sets out that here are several exemptions, including on/for:

- medical grounds,

- only sons,
 - some dual nationals,
 - Men in permanent government positions and essential industries
 - some students
32. Paragraph 2.4.10 sets out that Exemptions can be both temporary and permanent. For example, students who are exempt from national service must complete it but they can defer it until they have finished their studies (see [Exemptions](#)).
33. 2.4.11 There is no exemption for conscientious objection. There have been, however, a couple of reported cases of individuals who were conscientious objectors being exempted although without an official explanation of why they were exempted. Nevertheless there is no indication that the government has changed its general position on conscientious objection as a grounds for exemption (see [Conscientious objection](#)).
34. 2.4.12 The available evidence indicates that a significant number of eligible men do not complete military service. One source observed that most, but by no means all, Egyptian males undergo some form of national service. This assessment appears supported by available data. There are reportedly around 200,000 conscripts in the armed forces however there is no information in the sources consulted of how many conscripts are in the prison or police forces. The total male population of 18-30 year olds is likely to be in excess of 5 million, with for example, in 2010, over 700,000 becoming eligible for military service. The eligible military service male population would therefore appear to far exceed the actual numbers serving in the armed forces, suggesting that many do not, in fact, undertake military service in the armed forces or possibly elsewhere (see [Size of the military](#)).
35. Paragraph 2.4.13 states that where on the facts of the case it is reasonable to conclude that a person is exempt, the onus is on the person to demonstrate that they are not.
36. In the evidence before the FtTJ, the exceptions to military service were expressly set out at paragraph 50 by reference to paragraph 2.4.9 of the relevant CPIN and at paragraph 51 of the decision letter the respondent's case took into account the appellant's own evidence based on his status as being an only son (see AI 27,28 and as set out in the witness statement), which confirmed that he there was a reasonable likelihood that the appellant would be eligible for exemption under the reasons given at paragraph 2.4.9.
37. Contrary to the grounds and submissions made, the FtTJ adequately explained why the appellant fell within one of the exceptions to military service. Firstly the FtTJ was entitled to rely upon the concession made as recorded at paragraph 28, which was based on the appellant's own evidence that he was

an only son. As set out above it was accepted by counsel that there was at least a reasonable degree of likelihood that the appellant would be exempt from military service for that reason. The concession was consistent with the contents of paragraph 2.4.9 which was cited in the decision letter and also consistent with the appellant's own evidence as to his status of being an only son.

38. Furthermore, the concession was consistent with paragraph 2.4.13 of the CPIN which states that where on the facts of the case it is reasonable to conclude that a person is exempt, the onus is on the person to demonstrate that they are not met. This is reflected in the decision letter at paragraph 51 where it was plainly stated "you have not established why you cannot obtain an exemption from the military service upon your return to Egypt."
39. Consequently in light of the concession made and based on the contents of the CPIN as quoted in the decision letter, the FtTJ was entitled to reach the conclusion that there was a reasonable likelihood that the appellant would fall within an exception to military service and thus would not be at risk on return.
40. Whilst Mr Islam submits that the FtTJ should have explored the contents of the relevant CPIN "more fully", in light of the submissions made on behalf of the respondent and also on behalf of the appellant, the FtTJ properly engaged with the evidence. The concession was consistent not only with the CPIN at paragraph 2.4.9 but was also plainly based on the appellant's own factual account.
41. Furthermore whilst it does not seem to be in dispute that the CPIN was not in the respondent's bundle, the relevant CPIN was clearly identified and verbatim parts of the CPIN was quoted in the decision letter, and which expressly considered the issue of exemption. There was no reference made in the ASA to the contents of the CPIN nor of any objective evidence relied upon to demonstrate that he did not fall within any exception. Whilst there was objective evidence in the appellant's bundle it contained copies of other CPIN's but the relevant one relating to military service was absent.
42. In the circumstances, the FtTJ was entitled to consider the issue on the basis of the evidence put before her and on the submissions made by appellant's Counsel and the material in the decision letter. Having considered the submissions made in light of the material before the FtTJ, it has not been established that the FtTJ erred in law in her consideration of the evidence.
43. In any event, even if the FtTJ's attention had been drawn to paragraph 6.3.1, the information contained there was consistent with and supportive of paragraph 2.4.9 which the FtTJ cited and took into account. Paragraph 6.2 relates to medical circumstances which are not relevant to this appellant. Paragraph 6.3 refers to "certain family circumstances-only sons and breadwinners".
44. At 6.3.1 The 2019 DFAT report noted:

'Exemptions... can occur for family reasons, including when an individual is an only son, is the only breadwinner,... This exemption is

renewed every three years for reassessment of the situation until the subject is 30 years old, at which time he receives a permanent exemption.' This is consistent with the factual evidence given by the appellant as an only son and that his father did not work (see asylum interview Q32).

45. Paragraph 6.3.5 was also cited by Mr Islam which relates to temporary exemptions. The ministry further noted military service can also be exempted for the "only son for a living father, who siblings are unable to earn." At paragraph 6.3.6, it records that in November 2016, Middle East Eye reported that exemptions can be granted on four grounds, one of which was 'if the would-be conscript is an only son.'; another was if the person 'supports his parents.'
46. Consequently the FtTJ's assessment of the issue military service was adequately reasoned and was based on the evidence before the FtT including the factual evidence given by the appellant with his status as an only son. Ground one is not made out.
47. Dealing with ground 2, the written grounds and the submissions made are based on the adequacy of the reasoning of the FtTJ. In this respect there should be an acknowledgement of the need for appropriate restraint before interfering with a decision of the First-tier Tribunal, bearing in mind its task as primary fact-finder on the evidence before it, allocator of weight to relevant factors, and overall evaluator within the applicable legal framework. Decisions are to be read sensibly and holistically, perfection might be an aspiration, but is clearly not a necessity, and there is no requirement for reasons for reasons.
48. The constraints to which appellate tribunals and courts are subject in relation to appeals against findings of fact were recently (re)summarised by the Court of Appeal in *Volpi v Volpi* [\[2022\] EWCA Civ 464](#) in these terms, per Lewison LJ:

"2. The approach of an appeal court to that kind of appeal is a well-trodden path. It is unnecessary to refer in detail to the many cases that have discussed it; but the following principles are well-settled:

- i) An appeal court should not interfere with the trial judge's conclusions on primary facts unless it is satisfied that he was plainly wrong.
- ii) The adverb 'plainly' does not refer to the degree of confidence felt by the appeal court that it would not have reached the same conclusion as the trial judge. It does not matter, with whatever degree of certainty, that the appeal court considers that it would have reached a different conclusion. What matters is whether the decision under appeal is one that no reasonable judge could have reached.
- iii) An appeal court is bound, unless there is compelling reason to the contrary, to assume that the trial judge has taken the whole of the evidence into his consideration. The

mere fact that a judge does not mention a specific piece of evidence does not mean that he overlooked it.

iv) The validity of the findings of fact made by a trial judge is not aptly tested by considering whether the judgment presents a balanced account of the evidence. The trial judge must of course consider all the material evidence (although it need not all be discussed in his judgment). The weight which he gives to it is however pre-eminently a matter for him.

v) An appeal court can therefore set aside a judgment on the basis that the judge failed to give the evidence a balanced consideration only if the judge's conclusion was rationally insupportable.

vi) Reasons for judgment will always be capable of having been better expressed. An appeal court should not subject a judgment to narrow textual analysis. Nor should it be ever picked over or construed as though it was a piece of legislation or a contract."

49. With those propositions in mind, the grounds shall be addressed. The core of the appellant's account is that an incident had taken place when he was learning to drive and that he had accidentally hit a boy, who was later admitted to hospital but died and that he was in fear of the family who would take revenge upon him. The FtTJ recorded the agreed issues at paragraph 18 as (a) and (b) -did the appellant run over a boy? And (b) is the appellant at risk on return from people connected to the boy.
50. The FtTJ stated that she found those 2 issues more straightforward to resolve together and set out her findings of fact between paragraphs 22 - 27.
51. Contrary to the grounds and submissions made on behalf of the appellant, between those paragraphs the FtTJ gave adequate and sustainable evidence-based reasons for reaching her overall conclusion set out at paragraph 27 whereby she rejected the appellant's account. As submitted by Ms Young on any fair reading of the decision it can be seen that the FtTJ addressed the core of the appellant's account concerning the incident with the boy and gave her reasons, which were evidence-based for disbelieving the appellant's account.
52. Between paragraphs 22-24 the FtTJ considered the appellant's evidence and the consistency of the account given by him relating to that core incident. The FtTJ identified at paragraph 22 that the appellant had not given a consistent account as to when the accident had taken place, having said that it took place at night-time whereas in his interview he had said that it was late afternoon. Whilst there was inconsistency in the account given on that issue, the FtTJ did not consider it to be such a significant discrepancy to undermine his claim as a whole. However at paragraphs 23 and 24, the FtTJ set out a number of other parts of the appellant's evidence when taken together where such that the judge was satisfied did undermine the core of the appellant's account.

53. At paragraph 23 the judge identified that the appellant had not given a consistent or credible account of the incident. Firstly, she took into account the evidence given in interview where he was unable to name the boy involved in the accident. That was a finding open to the FtTJ to make based on the evidence. The evidence before the FtTJ from the appellant's interview was that whilst driving the car, a cow had run out in front of him and he accidentally hit a boy (question 63) he got out and try to see the victim, but his friend told him to escape as he had seen the boy's family who were with him. The appellant stated that his friend knew these people had seen the appellant as the victim's brother was following him before the accident (question 67). However, when asked to identify who they were, the appellant was initially unable to answer stating "I cannot remember the name of the person, the name of the family is, sorry I forgot the name of the family." (Question 70). When asked the victim's brother's name the appellant was unable to provide it (question 71) and in light of his account that they were powerful people that he could not give their name, the appellant responded, "the family name is very difficult". It was only later after further questions at the appellant gave a name when asked to explain why he had only just been able to remember the name he stated, "it is a difficult name" (question 75). Whilst he later gave a name he stated that he was not sure (question 74 - 76) when asked to explain why he was struggling to give details of such key information as to the name of the people involved, it was recorded that the appellant did not provide a reasonable answer stating, "I always remember the victim in my dreams" (see question 77). He later provided an explanation that he was confused and could not be expected to go to ask the family for their name (question 75) however as the decision letter set out, the appellant had stated that his friend had identified the people to him at the time of the accident.
54. Against that evidential background, the FtTJ's factual finding was that the appellant was initially not able to provide boys name, the family's name or the name of the victim's brother. This was a finding open to the FtTJ to make which is based on evidence given by the appellant including evidence in the asylum interview and as reflected in the decision letter at paragraphs 34 - 37. Consequently the FtTJ's finding that "it did not seem plausible that for such a significant event in his life, the appellant struggled to recall these basic details when first asked in his AIR"(at paragraph 23) was one the FtTJ was entitled to make given the significance of the event and the appellant's inability to identify the people involved and that this undermined the credibility of his account.
55. At paragraph 24, the FtTJ considered further aspects of the appellant's evidence and set out other inconsistencies relevant to establishing the credibility of the core of his account. The FtTJ found on the evidence that the appellant did not give a consistent date for when the accident took place. The judge recorded that he had given different dates - initially stating it was November 2011 and then in December 2011. The judge recorded his oral evidence is giving a different date of 2012 and then stated that he had left Egypt at the beginning of 2012 after the incident had happened 10 to 14 days earlier. Both screening interviews refer to him leaving Egypt in November 2012. It was open to the FtTJ to find that his inconsistent evidence as to when the events took place which she described as a "lack of clarity" caused her to doubt that the incident had taken place. The FtTJ considered the appellant's evidence based on his personal characteristics and whether this

could account for any inconsistent evidence but found that he had been educated and as such is not likely to experience the challenges of someone who was illiterate.

56. The FtTJ also made a finding that the appellant had not been consistent in establishing his account and the reasons that he had left Egypt when entering the UK. At paragraph 42 the FtTJ found that the appellant had not made any reference to the accident with the boy in his screening interview.
57. Mr Islam on behalf of the appellant submitted that in reaching this finding the FtTJ did not take into account material evidence, and this was an error of law. The evidence was the screening interview dated 5 August 2018 where at paragraph 4.1 he referred to the incident with the boy taking place in November 2012. Mr Islam submission was that as a result the judge gave inadequate reasons for finding that the appellant was not credible.
58. There is no merit to that submission. At paragraph 21 the FtTJ noted that whilst the references to the evidence would be “inevitably selective”, she confirmed that she had considered all the evidence “in the round” applying the lower standard. In doing so the FtTJ was not required to set out all pieces of evidence when addressing issues of credibility and the judge was entitled to consider the history of the appellant’s claim in the light of the overall evidence.
59. When looking at the appellant’s immigration history this was set out in the decision letter and that prior to his arrival in 2018, the appellant had entered the UK and attempted to claim asylum in 2017. The decision letter recorded the immigration history at paragraphs 44 – 45 and that he had claimed asylum in France in December 2016 and gave the reason for family issues, knowing that the appellant’s father had been part of the Muslim Brotherhood and had told him to avoid national service. When the appellant arrived in the UK in 2017 he set out the basis of this claim in a screening interview dated 16 August 2017. This document was referred to in the decision letter and also formed part of the respondent’s bundle at p24(A1). At 3.3 he claimed to have left Egypt in November 2012 at 4.1 when setting out the basis of claim he stated “I was called to join the army. My father advised not to do so I fear to be arrested and forced to join the army, so I left. If I return I will be arrested and put in prison if I return.” Following the claim, the appellant was returned to France where he stayed for 5 days and travel to Belgium where he stayed for 3 months and then the glory to Holland where he was arrested in April 2018. He was returned to France by the Dutch authorities and after being released he travelled to Belgium and then onto the UK arriving on 3 August 2018. In the screening interview taken one year later on 5 August 2018 at 4.1 the appellant did refer to an incident in November 2012 when trying to learn to drive the accidentally hit someone.
60. As can be seen from immigration history and is recorded in the decision letter, the FtTJ was not factually incorrect in finding that when the appellant first entered the UK in 2017 and when asked for his reasons for claiming asylum he made no reference to the incident with the boy. Whilst the appellant did refer to this on his 2nd entry to the UK in 2018, a year later, the judge was entitled to consider when assessing the credibility of

his account the failure to earlier provide the account he relied upon and also any explanation that he gave for this. The FtTJ recorded his evidence at paragraph 24 stating that “the appellant says he was scared of the consequences”. It was open to the FtTJ to find that the failure to provide an account of the incident that occurred with the boy when he entered in 2017 was an additional reason or “feature” which detracted from the plausibility of his account. This was a finding open to the FtTJ to make on the basis as the incident was the core of the appellant’s claim to be in fear and why he left Egypt, and that it was reasonable to expect the appellant to be consistent in the reasons he gave upon first entry in 2017.

61. At paragraph 25 the FtTJ considered the claim made by the appellant that the family of the boy were powerful and influential. The FtTJ gave reasons for rejecting this finding the appellant’s account to be “vague and speculative” on this issue. It was open to the FtTJ to consider the evidence in the round and in light of her earlier findings of fact. The FtTJ had found that the appellant has not been able to provide a coherent account of the identity/names of the boy or his family despite the claim that they were influential people. The FtTJ also considered the account that they were so influential they could locate him wherever he was but found that there was a “dearth of background evidence to demonstrate the reach and influence of the family or the tribe”. No background/country evidence has been identified in support of this part of the claim and the FtTJ was entitled to conclude that this further undermined the appellant’s overall factual claim.
62. Having considered the grounds of challenge and applying the above propositions, for the reasons set out below, the grounds do not demonstrate that the FtTJ failed to give adequate reasons for her decision for rejecting the core of the appellant’s account. Therefore it is not necessary to consider the remaining ground that the judge failed to adequately assess the risk that he faced from the tribe on return to any part of Egypt. As the FtTJ set out at paragraph 27 in light of her findings about issues (a) and (b) -did the appellant run over the boy, is the appellant at risk on return from people connected to the boy, it was not necessary to resolve the issue (c) which related to internal relocation.
63. In conclusion and when properly analysed, the grounds of challenge are not made out and amount to no more than a disagreement with the decision. When addressing the issue of adequacy of reasons, in MD (Turkey) v SSHD [2017] EWCA Civ 1958 the Court of Appeal confirmed that adequacy meant no more nor less than that. It was not a counsel of perfection. Still less should it provide an opportunity to undertake a qualitative assessment of the reasons to see if they are wanting, perhaps even surprising, on their merits. Whilst the decision is relatively short it does not mean that the decision was wrong in law nor lacking in adequate reasoning. The FtTJ gave several reasons for finding the appellant’s account not to be credible which related to the core of his factual account.
64. Having considered the decision the FtTJ was required to consider the evidence that was before the First-tier Tribunal as a whole, and she plainly did so, giving adequate reasons for her decision. The findings and conclusions reached by the FtTJ are neither irrational nor unreasonable.
65. Consequently the appellant has not established that the FtTJ’s decision

involved the making of an error on a point of law, therefore the decision shall stand.

Notice of Decision:

The decision of the First-tier Tribunal did not involve the making of an error on a point of law; the decision shall stand.

Upper Tribunal Judge Reeds
Upper Tribunal Judge Reeds

30 March 2023