

IN THE IMMIGRATION APPEAL TRIBUNAL

Heard at: Field House Decision number: **_A (CHRISTIAN - PERSECUTION - PROTECTION) EGYPT [2003] UKIAT 00056**

Heard on: 29th July 2003 Appeal number:
Date typed: 30th July 2003
Date promulgated: 29th August 2003

The IMMIGRATION ACTS

Before:

MS. D. K. GILL (CHAIRMAN)
MR. R BAINES JP

Between:

And

Appellant

The Secretary of State for the Home Department

Respondent

DETERMINATION AND REASONS

Representation:

For the Appellant:

Mr. D J. Webb, of D J. Webb & Co. Solicitors.

For the Respondent:

Mr. M. Davidson, Senior Home Office Presenting Officer.

1. The Appellant is a national of Egypt, aged about 35 years. He arrived in the United Kingdom on 20th June 1999 and claimed asylum about a week later. He has appealed, with leave, against the determination of Mr. A R Williams, an Adjudicator, who (following a hearing on 24th February 2003 at Hatton Cross) dismissed his appeal on asylum and human rights grounds against the Respondent's decision of 15th November 2001 to give directions for his removal to Egypt as an illegal entrant.
2. The issue which is before us is whether, as a Muslim covert to Christianity, the Appellant faces a real risk of treatment sufficiently severe as to amount to persecution or treatment in breach of Article 3, at the hands of the Egyptian authorities as well as at the hands of Islamic groups and individuals.
3. The Appellant made his claim on asylum and human rights grounds and the Adjudicator dismissed it on both grounds. The asylum and human rights grounds relate to risk of persecution or treatment contrary to Article 3 on return to Egypt, on account of the fact that the Appellant, who was born as a Muslim, converted to the Christian faith whilst he was still living in Egypt. He was a university student in Egypt between 1989 and 1994. During this period, he was beaten up several times by Islamic groups. On one occasion, he was arrested, beaten and released after three months. He became a university lecturer in 1996. He claims he was followed by undercover police and fundamental Muslims due to his Christianity. He was appointed to teach geopolitics at the university. He taught students about Christianity. He was told on one occasion that he would be killed if he did not stop lecturing about freedom of religion. He says there were Islamic guards in his classroom. He was forbidden to talk to students about Christianity and he was eventually sacked. He was told that he was manipulating the students. He did,

however, return to his job as “they were short of lecturers” but he promised not to teach Christianity. Later, he was suspended but told he could work in the university administration area. He refused. He then applied for several jobs, but his applications were refused without any reasons being given. When he told his mother about his conversion to Christianity, she was not pleased. She told the neighbourhood and he was then abused by many in his neighbourhood. His sister was viciously attacked in the streets. The perpetrators said that it was because of his religious activities. He regularly attends church in the United Kingdom, particularly the Orthodox Coptic Church, near High Street, Kensington.

4. The Adjudicator had no doubt that the Appellant is, and was, a Christian in a largely non-Christian country. He did not make any specific findings as the Appellant’s alleged past experiences in Egypt. However, he found as a fact, that the Appellant had suffered some discrimination and harassment which fell short of persecution. He accepted in generality the submission that converts to Christianity from Islam face harder treatment than Christians who have always been Christians. However, he was unable to say, even on the lower standard of proof, that the Appellant had suffered persecution in a Convention sense whilst in Egypt or has a well-founded fear of persecution should he return to Egypt. The Adjudicator also found as a fact that the Appellant had a viable internal flight alternative.
5. The grounds of application assert that the Adjudicator was wrong to find that the Appellant had not suffered persecution, given the Appellant’s accounts of physical beatings, detentions and other degrading treatment which the Adjudicator had apparently accepted. Furthermore, it was asserted that the internal flight option was not open to the Appellant
6. Leave to appeal to the Tribunal was granted because the Vice President granting leave considered that the grounds were arguable.
7. Mr. Webb sought to adduce in evidence a small bundle of documents, which he informed us the Appellant had insisted should be before the Tribunal. These were documents which he had received from persons connected with his church. We agreed to receive the documents in evidence, although they were being served late.
- 8.1 In Mr. Webb’s submission, the crux of the Appellant’s case was correctly put by the Adjudicator – that is, that as a convert from the Muslim faith to the Christian faith, the Appellant fears that he would receive serious harm at the hands of members of the general population and the Egyptian authorities. The harm that he would face is greater than the harm a person who was born as a Christian faces. Page 5 of the Appellant’s bundle shows that there were serious attempts to impose Shari’a law in Egypt. Although this was not passed and although Shari’a law is not imposed rigorously in Egypt, it strongly influences the legal systems and the approach of the government. Various Muslim clerics have repeatedly taken a stronger line than the official line taken by the government. Page 13 of the Appellant’s bundle shows that there were calls in the 1990s to impose the death penalty on Muslim converts. Page 40 of the Appellant’s bundle, which is a document from Jubilee Campaign, shows that converts are in a most difficult position. The following few pages of the Appellant’s bundle give examples of the difficulties experienced in the 1990s. Pages 22 and 27 give further examples. All these are incidents which happened recently - that is, in the 1990s. There are also incidents in 2000 and 2002. The most recent incident is shown on page 27, which mentions an ongoing campaign to secure the release of Christian converts. The USSD report dated March 2003 states:

(page 14, fifth and sixth paragraphs)

Several dozen Christians who were accused of proselytising or who had converted from Islam were harassed by police or arrested on charges of violating Article 98 (F) of the Penal Code, which prohibits citizens from ridiculing or insulting heavenly religions or inciting sectarian strife.

*In cases involving conversion from Islam to Christianity, the authorities have charged several converts with violating laws prohibiting the falsification of documents. In such cases, **converts, who fear government harassment** if they officially register the change from Islam to Christianity, have altered their identification cards and other official documents themselves to reflect their new religion.*

(our emphasis)

- 8.2 Mr. Webb submitted that the words which we have emboldened above shows that converts fear government harassment and that mere conversion was sufficient to trigger the reaction of the police referred to in the first paragraph quoted above. In Mr. Webb's submission, converts face not merely general discrimination but something more serious from both officials and members of the population. The Appellant's own mother turned against him. Paragraph 12(a) of the Appellant's statement shows that he was arrested on one occasion in 1992 and held for 3 months. In 1997, he was arrested again (page A3 of the appeal bundle refers). The number of converts in Egypt is much smaller than the number of Christians in Egypt.
- 9.1 Mr. Davidson acknowledged that the Adjudicator appeared to have proceeded on the basis of accepting the Appellant's conversion. It would appear that the Adjudicator had accepted the summary of the Appellant's account as contained at paragraph 12 of the Determination. Unfortunately, the Adjudicator had not mentioned the 1997 arrest in paragraph 12 of the Determination. In any event, Mr. Davidson submitted that the Adjudicator had reviewed the objective evidence and found that the treatment the Appellant had experienced did not amount to persecution or in breach of Article 3 and that his fear of receiving such treatment was not well-founded.
- 9.2 Page 14 of the USSD Report states that proselytising or conversion is not prohibited and that Shari'a law is not strictly enforced in Egypt. The third paragraph on page 14 states that the practice of Christianity does not conflict with Shari'a law and, for the most part, members of the non-Muslim minority worshipped without harassment and maintained links with co-religionists abroad. In Mr. Davidson's submission, the fact that members of the non-Muslim minority were able to maintain links with co-religionists abroad shows the government's tolerant attitude. This is evidenced further by the fact that Father Bushra, who had written in support of the Appellant's appeal, had himself travelled to and from Egypt. Page 15 of the USSD report refers to improvements over the past two years, such as the introduction of the Coptic era into the history curriculum in all government schools and increased coverage of Christian subjects in the mass media. Page 18 of the USSD Report states that the total number of People's Assembly members from religious minorities (all Christians) was seven and that two Christians served among the 32 ministers in the Cabinet. In Mr. Davidson's submission, the government has a generally tolerant attitude towards members of the Christian faith. The fact that there are difficulties was acknowledged by the Adjudicator. Page 14 of the USSD Report states that approximately 8 to 10 % of the population are Christians, the majority of whom belong to the Coptic Orthodox Church.

- 9.3 The documents at pages 14, 22 and 27 of the Appellant's bundle which were being relied upon relate to incidents which took place some time ago. Page 14 relates to an incident from 1993 and page 22 to an incident which appears to have taken place in 1992. It is not clear whether page 27 refers to an incident in July 2003. The alleged incident relates to a person who had falsified his documents. There is no indication of what would happen to a person who does not falsify his documents.
- 9.4 The letter from Father Bushra does not provide any sources for the general assertions made in the letter, nor does it provide any specific details. In his final paragraph, Father Bushra states, in referring to the Appellant's fate: "If he miraculously manages to survive ...". This shows that Father Bushra was overstating the position, given that converts are not routinely killed. The letter from Rev Heinin quotes from a Human Rights Watch World Report which is dated 1993 / 1994. It is not relevant today.
- 9.5 The Appellant is someone who had managed to achieve a job as a lecturer, even after he converted.
- 9.6 Overall, Mr. Davidson submitted that the Adjudicator had assessed the objective evidence correctly and he asked us to dismiss the appeal.
10. Mr. Webb confirmed that the Appellant had not claimed to have falsified any documents. Page 57 of the Appellant's bundle mentions two recent incidents. The fact that the USSD Report mentions that, over the past two decades, several dozen Christians have been harassed or arrested shows that this is a topical subject and that the problems are ongoing. He asked us to allow the appeal.
11. We reserved our determination. We have decided to dismiss the appeal. We now give our reasons.
- 12.1 The letters of support contained in the small bundle submitted on the hearing day were not helpful. There was a letter (undated) written by Father Pishroy Bushra of the St. Mark's Church in Allen Street, Kensington, in response to a letter from Mr. Webb dated 21st July 2003. In his letter, Father Bushra makes various general assertions but does not support his assertions by reference to any examples or sources. Nor does he give any specific details. There is also a one page letter from Father Zakaria Henein dated 24th July 2003 in which he refers to the case of one Hany Sakr, whose application he says was allowed. Mr. Webb informed us that that was an appeal which was allowed at Adjudicator level. We have not been given any details relating to that case, nor have we been told whether there was a successful application for leave to appeal to the Tribunal. There is another letter from Rev Zakaria Henein (which we assume is the same person) but this quotes from an Human Rights Watch World Report of 1994. Rev Henein then refers to his own experiences. From this, we see that he was imprisoned in Egypt twice, the last time as long ago as in 1989.
- 12.2 Much of the objective material in the Appellant's 62-page bundle is now dated. This applies for example, to:
- (i) The extract from "Fact File" at pages 1 to 5 of the Appellant's bundle, which is dated Spring 1989 – that is, over 14 years ago.

- (ii) The report of the fact-finding trip undertaken by David Alton MP and the Jubilee Campaign (pages 6 to 18). The trip took place from September 1993 to October 1993 – that is, about 10 years ago.
- (iii) The Press release of the Jubilee Campaign at pages 19 and 20. This is dated April 1994 (nine years ago).

12.3 The incidents which Mr. Webb referred to us mostly relate to incidents in the 1990s. For example:

- (i) the incident at page 22 relates to an incident in 1992. This is the same incident mentioned at page 14 of the Appellant's bundle, on which Mr. Webb also relied.
- (ii) Page 31 of the Appellant's bundle refers to the problems of two Christian converts from Islam. However, one of these experienced problems from the police in 1995 and in 1996, the other in 1994.
- (iii) Page 42 refers to a human rights activist who was granted asylum in the United Kingdom in the month before the report was issued. It was issued in October 1998, which means that the incidents which this particular person experienced must have taken place in September 1998, or earlier.

12.4 Accordingly, all of the above documents, which are now dated, cannot be reliably accepted as a true indication of the current position, although we accept that they provide useful background information. The current position is more accurately reflected in the USSD Report dated March 2003, to which we refer below.

12.5 Other evidence to which we have been referred in the Appellant's bundle relate to persons who have falsified their documents. For example:

- (i) the incident at page 27.
- (ii) the incident on page 57 which is said to have occurred on 7th May 2002.

The Appellant has not falsified his documents. There is therefore no real risk that he would be mistreated for that reason.

12.6 This therefore leaves us, in essence, with one fairly recent incident which is recorded at page 57 of the Appellant's bundle. The incident relates to the kidnapping by Muslim fundamentalists of a 14-year old Coptic Christian girl whose family were sheltering a Muslim convert. She was later rescued but it is said that she continued to be threatened until the family were forced to send her abroad. It is said that other members of the family were interrogated by the police and were frequently harassed by threatening telephone calls. We are not told about the nature of the interrogation by the police of the family members. It is not possible to tell from this report whether the police were doing anything other than carrying out their legitimate duty of investigating a kidnapping. In any event, the police are only said to have interrogated family members. No mistreatment is suggested. There is nothing in the USSD Report to suggest that the police were unable or unwilling to provide protection. Indeed, the fact that they were involved in interrogating family members and that there was a rescue operation would tend to suggest the contrary. We acknowledge, however, that the article does not state who launched the rescue operation. At the most, all that this incident shows is that persons who are Muslim

converts to the Christian faith, and born-Christians who help them, do experience problems from Muslim fundamentalists. The mere fact that the young girl's family decided that she go abroad does not mean that, if she and her family had exercised an internal flight option, they would not have been safe.

- 12.7 We turn now to the USSD report, which is generally accepted as an impartial document. The report we have is the most recent one, dated March 2003, which is the report for the year 2002. This provides some helpful information. It states that approximately 8 to 10 % of the population are Christians, the majority of whom belong to the Coptic Orthodox Church. Neither the Constitution nor the Civil and Penal Codes prohibits proselytising or conversion. Although the report states that several dozen Christians who were accused of proselytising or who had converted from Islam were harassed by police or arrested on charges of violating Article 98(F) of the Penal Code, we note that this refers to *harassment* and, further, that the number of incidents total several dozen *over a period of two decades*. Whilst we acknowledge that the fact that this is mentioned in the USSD Report shows that the problem is still (in Mr. Webb's words) a "topical one", the fact is that the reference is to a very small number of incidents over a very long period. Where the authorities have taken action against converts from Islam to Christianity, this appears to relate to persons who have falsified their identity cards and other official documents themselves in order to reflect their new status. The Appellant is not someone who has falsified his documents. Mr. Webb submitted that the fact that converts fear government harassment if they officially register the change of their religion means that they *are* harassed by the government. We are not prepared to jump to this conclusion. This is not what the report states (see the quote from the USSD Report at our paragraph 8.1 above). In any event, "harassment" does not equate to "persecution".
- 12.8 The USSD report states that President Mubarak took several steps to facilitate church repairs. In 1999, he issued a decree making the repair of all places of worship subject to a 1976 civil construction code. The decree was significant symbolically because it made churches and mosques equal under the law. However, Christians reported that local permits still were subject to approval by security authorities. In a well received step on 17th December 2002, the President declared that 7th January, Coptic Christmas, would henceforth be a national holiday. The move was warmly welcomed by Christians and also by the country's principal Islamic leader. The USSD report refers to improvements in the past 2 years in some areas – such as the introduction of the Coptic era into the history curriculum in all government schools and increased coverage of Christian subjects in the mass media. We acknowledge that the report makes reference to discriminatory practices which persisted such as suspected statistical under-representation of the size of the Christian population in the 1986 census. It also states that there were no Christians serving as governors, police commissioners, city mayors, university presidents or deans and that there were few Christians in the upper ranks of the security services and armed forces. Against that, we note that there are seven Christians who serve in the People's Assembly and two Christians who serve in the 32-member Cabinet. The USSD Report refers to *discrimination* against Christians continuing in public sector employment, in staff appointments to public universities etc.
- 12.9 Overall, we gain the impression that Christians in Egypt, including converts from Islam, are not at real risk of treatment sufficiently severe or systematic as to amount to persecution or in breach of Article 3 at the hand of the Egyptian authorities. Whilst the Appellant has claimed to have been arrested on two occasions, these arrests took place in 1992 and in 1997. After his conversion in Egypt, he was able

to secure employment in Egypt as a university lecturer. The difficulties he experienced from the university arose from the fact that he had taught students Christianity, rather than the subject he was appointed to teach. As Mr. Webb confirmed, the Appellant is not someone who has falsified his identification documents. He is therefore not at risk of action being taken against him by the Egyptian authorities on that account. We acknowledge that, although Shari'a law is not strictly enforced in Egypt, it does influence the legal system and society in general. We accept that the Appellant may face discrimination at the hands of government officials, and that his position as a Muslim convert will be worse than that faced by a person born as a Christian. However, it is not reasonably likely that he would receive treatment which is sufficiently severe as to amount to persecution or in breach of Article 3 of the ECHR at the hands of the Egyptian authorities.

- 12.10 So far as the Appellant's fear of Muslim fundamentalist or individuals is concerned, the USSD report states that the Coptic Christians in Egypt were the objects of occasional violent assaults by the Islamic groups and other terrorists and that some Christians alleged that the government was lax in protecting lives and property, as several riots and conflicts with injuries and property damage occurred during the year. We note that the report refers to "occasional violent assaults" and, further, goes on to state that there were no reports of terrorist attacks against Christians during the year. We have to decide this appeal on the low standard of a real risk. Whilst we acknowledge that the Appellant is at greater risk, as a Muslim convert, than a person who is born a Christian, the evidence does not show that the risk that he will face difficulties from Islamic groups is sufficient to reach the low standard of a real risk.
- 12.11 In any event, we are satisfied that, if he does experience problems from any Islamic groups or individuals, he would be able to turn to the Egyptian authorities for sufficient protection. The fact that the USSD Report refers to *some* Christians alleging that the government was *lax* in protecting lives and property does not mean that there is insufficient protection. Furthermore, this particular sentence in the USSD Report has to be seen within the context of the rest of the information contained in that report, to which we have referred above. Furthermore, we agree with the Adjudicator that the Appellant has a viable internal flight option. He does not need to return to his former neighbourhood. He would be safe, if he were to relocate. This would not be unduly harsh. Indeed, we note that, in the final paragraph of his statement at page A4 of the statutory appeal bundle, he said that he had gone to live in Alexandria. He did not mention having experienced any actual problems in Alexandria, apart from saying that, as a stranger, people were interested in him and he left Alexandria because he did not want to create further suspicion. Although he said that he lived as a virtual recluse in Alexandria, he was able to attend church.
- 12.12 For all of the above reasons, we are satisfied that the Adjudicator's finding that the Appellant does not face a real risk of treatment sufficiently severe as to amount to persecution or treatment in breach of Article 3 is sound on the evidence which was before him, and we make the same finding on the evidence which is before us. We are also of the view that the Adjudicator's finding that the Appellant's past experiences did not amount to persecution is one which was open to him, bearing in mind that (in relation to his problems from Muslim groups and individuals) he did not make any complaints to the police.
13. For all of these reasons, the appeal is dismissed.

Decision

The appeal is DISMISSED.

Ms. D. K. GILL
Vice President

Date: 8th August 2003