



**Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: PA/02012/2019 (P)**

THE IMMIGRATION ACTS

**Decided at Cardiff Civil Justice Centre
Without a Hearing under Rule 34
On 12 April 2021**

**Decision & Reasons Promulgated
On 15 April 2021**

Before

UPPER TRIBUNAL JUDGE GRUBB

Between

**K J D
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms C Philips, instructed by Duncan Lewis Solicitors
(written representation only)

For the Respondent: Mr C Avery, Senior Home Office Presenting Officer (written
representation only)

DECISION AND REASONS

1. Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 (SI 2008/2698) I make an anonymity order. Unless the Upper Tribunal or court directs otherwise, no report of these proceedings shall directly or indirectly identify the appellant. This direction applies to both the appellant and to the respondent and a failure to comply with this direction could lead to contempt of court proceedings.

2. The appellant is a citizen of Egypt who was born on 1 January 2001. He arrived clandestinely in the United Kingdom on 29 July 2017 and claimed asylum on 17 August 2017. The basis of his claim was that he feared a family in Egypt, in effect, there was a blood feud.
3. On 15 February 2019, following an earlier asylum interview, the Secretary of State refused the appellant's claims for asylum, humanitarian protection and under the ECHR.
4. The appellant appealed to the First-tier Tribunal. In a determination sent on 23 December 2020, Judge Malcolm allowed the appellant's appeal under Art 8 of the ECHR but he dismissed the appeal on asylum and humanitarian protection grounds and under Art 3 of the ECHR. In essence, as regards the appellant's international protection claim, Judge Malcolm accepted that the appellant would be at risk in his home area as he claimed but concluded that he could safely internally relocate within Egypt.
5. The appellant sought permission to appeal to the Upper Tribunal on a number of grounds, including that the judge had failed properly to consider the reasonableness of the appellant internally relocating within Egypt. On 27 January 2021, the First-tier Tribunal (Judge Andrew) granted the appellant permission to appeal.
6. In response to that grant of permission, the respondent filed a rule 24 response on 5 February 2021. Paragraphs 2 and 3 of that response are as follows:
 - “2. The respondent does not oppose the appellant's application for permission to appeal. The judge found that the appellant would be at risk in his home area and that he would not be able to function independently due to his mental health issues.
 3. The Tribunal is invited to set aside the decision of the First Tier and substitute it with one allowing the appeal under the Refugee Convention on the basis that internal relocation would not be reasonable.”
7. On 10 February 2021, the Upper Tribunal (UTJ Norton-Taylor) made directions in the light of the rule 24 response expressing a provisional view that the appeal could be disposed without a hearing pursuant to rule 34 of the Tribunal Procedure (Upper Tribunal) Rules 2008 (SI 2008/2698) (“UT Rules”). In addition, UTJ Norton-Taylor invited submissions on whether the appeal should be allowed on Refugee Convention grounds – as the respondent proposed – in particular whether a Convention ground was engaged.
8. In response to those directions, the Home Office made no further submissions. However, on 22 February 2021 Ms Philips, instructed on behalf of the appellant, made detailed submissions in which she set out that the Refugee Convention was relied upon before the judge and contending that, as the risk to the appellant arose from a blood feud

between families in Egypt, it would be appropriate to allow the appeal on asylum grounds, as the respondent invited the Upper Tribunal to do.

9. In the light of the party's submissions, and their unequivocal invitations to determine the appeal without a hearing, I am satisfied that it is in the interests of justice to determine the appeal without a hearing under rule 34 of the UT Rules.
10. The Upper Tribunal is invited to set aside the decision and allow the appeal on asylum grounds. Given the Secretary of State's position as set out in the rule 24 response, it is accepted that the judge erred in law in dismissing the appellant's international protection claim. Further, it is accepted that appellant (as the judge found) is at real risk of persecution as a result of, in effect, a 'blood feud' with a family in Egypt and that it would not be reasonable to expect him to internally relocate within Egypt given the judge's findings in relation to his vulnerability. The Senior Presenting Officer's position set out in the rule 24 reply is, in my judgment, properly based upon the premise that the appellant forms a part of a particular social group (PSG) in Egypt, namely he is at risk as a member of a family and, as a result, the Refugee Convention is engaged (see K and Fornah v SSHD [2006] UKHL 46 at [39]-[52] per Lord Hope; [62] and [65] per Lord Rodger). That, as I have already indicated, lies at the heart of the appellant's most recent submissions made by Ms Philips.
11. Accordingly, I accept the Secretary of State's concession that the First-tier Tribunal erred in law in dismissing the appellant's appeal on asylum grounds. That decision is, accordingly, set aside.
12. I also accept the respondent's invitation to allow the appeal on the basis that the appellant has both established a risk of persecution in his home are and that he cannot reasonably be expected to internally relocate within Egypt. That fear, in accordance with the concession made by the respondent in the rule 24 response, engages the Refugee Convention and so I substitute a decision allowing the appellant's appeal on asylum grounds.

Decision

13. For the above reasons, the decision of the First-tier Tribunal to dismiss the appellant's appeal involved the making of an error of law. That decision cannot stand and is set aside.
14. I substitute a decision allowing the appellant's appeal on asylum grounds.
15. The judge's decision to allow the appellant's appeal under Art 8 of the ECHR stands.

Signed

Andrew Grubb

Judge of the Upper Tribunal
13 April 2021