IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2024-001163

First-tier Tribunal No: PA/00901/2022

THE IMMIGRATION ACTS

Decision & Reasons Issued:
On 2 January 2025

Before

UPPER TRIBUNAL JUDGE STEPHEN SMITH

Between

MS (Egypt)
(ANONYMITY DIRECTION MADE)

Appellant

and

Secretary of State for the Home Department

Respondent

Representation:
For the Appellant: Ms P. Solanki, instructed by Citizens' Advice North and West Kent
For the Respondent: Ms S. McKenzie, Senior Home Office Presenting Officer

Heard at Field House on 28 November 2024
Post-hearing submissions received on 29 November 2024 and 16 December 2024

DECISION AND REASONS

1. This is an appeal against a decision of the Secretary of State dated 16 September 2022 to refuse the appellant's protection claim. The appeal was brought under section 82(1) of the Nationality, Immigration and Asylum Act 2002 ("the 2002 Act"). It was heard in the Upper Tribunal under section 12(2)(b)(ii) of the Tribunals, Courts and Enforcement Act 2007 ("the 2007 Act").

Factual background and principle controversial issues

2. The appellant is a citizen of Egypt. He was born in 2004. There are preserved findings of fact reached by the First-tier Tribunal that he faces a real risk of serious harm from the family of a girl called N. N's family were enraged that the appellant conducted a secret relationship with her and that the appellant's father approached N's father for permission for them to marry. They threatened the

appellant to stay away or be killed. He fled Egypt with the help of his family, flying to Turkey before making his way to continental Europe. He arrived in the United Kingdom on 23 February 2021, unlawfully, when he was aged 17. He claimed asylum shortly afterwards.

3. The appellant appealed to the First-tier Tribunal against the refusal of his asylum claim. The appeal was heard by First-tier Tribunal Judge Turner ("the judge"). By a decision promulgated on 20 February 2024, the judge allowed the appeal. The Secretary of State appealed to the Upper Tribunal.

4. The Secretary of State's appeal was heard by the Upper Tribunal on 24 May 2024 before a panel over which I presided, sitting with Deputy Upper Tribunal Judge Hanbury. The Error of Law decision promulgated pursuant to that hearing may be found in the **Annex** to this decision. It was against that background that the matter resumed before me, sitting alone, on 28 November 2024.

5. Although the appellant originally claimed asylum, it is common ground that this claim is now a claim for humanitarian protection. That is because, on the unchallenged findings of the First-tier Tribunal, the appellant faces a real risk of serious harm from non-state agents for a non-Convention ground.

6. The error of law decision preserved a number of findings of fact reached by Judge Turner. The principal controversial issues are, in the context of a claim for humanitarian protection:

    a. whether it would be unduly harsh for the appellant to locate to another part of Egypt; and

    b. whether he would enjoy sufficient protection from the authorities against any residual threat posed by N's family?

7. I received post-hearing submissions on 29 November and 16 December 2024 as set out below.

Joint Presidential Guidance Note No. 2 of 2010

8. The appellant experiences a number of mental health conditions as set out in the report of Dr N. Galappathie, a consultant forensic psychiatrist, dated 19 November 2024 ("the Galappathie Report"). The events the appellant claims to have fled took place while he was child. Two matters flow from this.

9. First, it is appropriate to maintain the anonymity granted to the appellant by the First-tier Tribunal and previously upheld by this Tribunal, in light of the nature of his claim, and to ensure that the publication of this decision does not expose the appellant to a risk he would not otherwise face.

10. Secondly, since the appellant is a vulnerable person, I must treat him as such in accordance with the requirements of the Joint Presidential Guidance Note No. 2 of 2010. This Tribunal has always sought to extend the benefit of that guidance to this appellant, both when he was a litigant in person (as he was at the Error of Law stage, at the hearing on 24 May 2024, albeit he was assisted by Kent County Council's children's services as a previously looked-after child, and was assisted by a firm of solicitors when claiming asylum, see, for example, page 252 of the composite Upper Tribunal bundle), and at the resumed hearing on 28 November 2024. The guidance requires reasonable adjustments during the hearing itself, which in this context primarily took the form of providing the appellant with the opportunity to take breaks, taking additional steps to ensure that he understood what was taking place, and ensuring that any cross examination took place in an

appropriate manner, with questions put in a non-hostile manner in clear and straightforward language.

11. The Joint Presidential Guidance, and the relevant authorities, also require me to take into account the appellant's vulnerability in my assessment of his evidence. It is necessary for me to calibrate my assessment of the credibility of his evidence by reference to the underlying mental health conditions experienced by the appellant, and the fact he was still a child when the events in question took place. I confirm that that is the approach I have taken to my assessment of the appellant's evidence.

Adjournment application refused

12. At the hearing before me on 28 November 2024, the parties applied to adjourn the proceedings. I refused the application in a ruling given at the hearing, explaining that it was not necessary to do so in order for the appellant to enjoy a fair hearing. I summarise the main reasons I gave for refusing the application, below. First, I must explain the context.

13. The Galappathie Report raised a number of matters which the appellant sought to rely on as an Article 3 ECHR health claim. Such matters amounted to a "new matter" for the purposes of section 85 of the 2002 Act, requiring the Secretary of State's consent. By a letter dated 22 November 2024, Ms McKenzie refused to provide the Secretary of State's consent to this Tribunal considering those matters.

14. Ms McKenzie explained that the Secretary of State sought to be the primary decision maker in relation to the new matters. The Secretary of State had given priority to addressing those matters and, at the time of the hearing before me, was in the process of drafting a supplementary decision. The approach adopted by Ms McKenzie was that, if the appellant's health-based representations were refused, and if the Upper Tribunal was minded to revisit its earlier direction that the proceedings should be retained in the Upper Tribunal under section 12(2)(b)(ii) of the 2007 Act, the Secretary of State would be willing to grant her consent to the tribunal considering the matter. I made clear in my ruling that my understanding of the Secretary of State's position was that she was offering to grant her consent to the new matter is being considered only on the condition that the proceedings would then be remitted by the Upper Tribunal to the First-tier Tribunal in order for a substantive appeal addressing all issues to take place in that forum.

15. Ms Solanki's position was that if the appellant's health-based representations were refused, the identified principal controversial issues in these proceedings should be determined at the same time as any challenge to the refusal of those matters. She therefore agreed with the Secretary of State's proposal that the Secretary of State should consent to the new matters being considered if I was willing to remit the proceedings to the First-tier Tribunal, if and when a supplementary decision had been taken refusing the health-based representations. That would entail adjourning the proceedings, she submitted. Ms Solanki also applied for the proceedings to be adjourned in order for the appellant to bring judicial review proceedings against the Secretary of State's 'refusal' to consent to the new matters being considered.

16. I refused the application to adjourn. I explained that it was not appropriate for the parties to purport to agree that consent should be granted by the Secretary of State only on the footing that I would revisit the Upper Tribunal's earlier decision to retain the appeal for determination in this tribunal under section 12(2)(b)(ii) of

the 2007 Act. It was not appropriate for the Secretary of State to seek to make the provision of her consent conditional in that way and could potentially have been an abuse of the tribunal's process.

17. The target of any judicial review by the appellant, had I adjourned, would have been a decision that he agreed with in any event, since neither party wanted the Upper Tribunal to hear the appellant's appeal against any refusal of his further submissions, and both parties were agreed that any appeal against the refusal of those submissions should be before the First-tier Tribunal.

18. Moreover, such a challenge by way of judicial review would have had no real prospect of success, since the premise of the common ground between the appellant and the Secretary of State was that this tribunal should somehow be party to a decision to grant conditional consent, by indicating in advance that, in the event consent were granted, I would remit the proceedings to the First-tier Tribunal, with certain findings of fact preserved. It is difficult to envisage a situation where it would ever be appropriate for the Upper Tribunal to be party to such an agreement. In any event, this tribunal's earlier decision to preserve certain findings of fact reached by the First-tier Tribunal meant that the case was less suitable for remittal to the First-tier Tribunal, which is why the proceedings had been retained in this tribunal in the first place (see para. 7.2(b) of the Practice Statement). It is only in very exceptional cases that decisions taken at the error of law stage should be revisited (see, by analogy, *AZ (error of law: jurisdiction; PTA practice) Iran* [2018] UKUT 245 (IAC), headnote at para. (2)). Nothing about the circumstances of this case met that threshold, not least because I was invited to revisit the error of law decision's conclusions as to the onward management of the appeal as a condition precedent to Secretary of State granting her consent, which would have been highly inappropriate.

19. The overriding objective requires delay to be avoided, so far as compatible with the proper consideration of the issues. These proceedings have been adjourned at my direction previously, on 3 July and 6 September 2024. Further delay would have been incompatible with the overriding objective, and was not necessary in order for the Upper Tribunal fairly to consider all issues that were before it, in light of the Secretary of State's decision to refuse to consent to the new matters being considered.

20. I concluded that the appellant would enjoy a fair hearing before me. My refusal to adjourn the proceedings would not deprive the appellant of the opportunity for judicial determination of any refusal of the new matters. If the further submissions raising new matters were refused, it is inconceivable to think that the Secretary of State could properly conclude that the refusal would not attract the right of appeal, in light of her position in these proceedings that the First-tier Tribunal was the appropriate forum for any challenge to such a refusal to be heard. The overriding objective to decide cases fairly and justly does not entail providing the appellant with a single opportunity for all matters to be adjudicated upon to the exclusion of other legitimate (and primary) avenues of redress. If the appellant's further submissions (for that is what they are) are refused, the Secretary of State will have to apply paragraph 353 of the Immigration Rules. As stated above, on the material before me it is inconceivable that she will be able to refuse those further submissions without treating them as a fresh claim, attracting a right of appeal, in light of the position she has already taken in these proceedings. Declining to adjourn in the circumstances was therefore entirely compatible with the regime established by Parliament to address precisely this situation. The availability of the further submissions and fresh claim procedures

protects the position of the appellant and did not deprive the appellant of a fair hearing in this tribunal.

21. I therefore refused the application to adjourn the proceedings.

The law

22. This appeal is brought under section 82(1)(a) and (b) of the 2002 Act, which is engaged where the Secretary of State has decided to refuse a protection claim and a human rights claim respectively. The ground of appeal, in relation to a refusal of a humanitarian protection claim, is provided by section 84(1)(b), namely that:

> "…removal of the appellant from the United Kingdom would breach the United Kingdom's obligations in relation to persons eligible for a grant of humanitarian protection."

23. The United Kingdom's obligations in relation to persons eligible for a grant of humanitarian protection are now articulated in the Immigration Rules, specifically at para. 339C:

> "339C. An asylum applicant will be granted humanitarian protection in the United Kingdom if the Secretary of State is satisfied that:
>
> (i) they are in the United Kingdom or have arrived at a port of entry in the United Kingdom;
>
> (ii) they are not a refugee within the meaning of Article 1 of the 1951 Refugee Convention;
>
> (iii) substantial grounds have been shown for believing that the asylum applicant concerned, if returned to the country of origin, would face a real risk of suffering serious harm and is unable, or, owing to such risk, unwilling to avail themselves of the protection of that country; and
>
> (iv) they are not excluded from a grant of humanitarian protection.
>
> 339CA. For the purposes of paragraph 339C, serious harm consists of:
>
> (i) the death penalty or execution;
>
> (ii) unlawful killing;
>
> (iii) torture or inhuman or degrading treatment or punishment of a person in the country of origin; or
>
> (iv) serious and individual threat to a civilian's life or person by reason of indiscriminate violence in situations of international or internal armed conflict."

24. To address the identified principle controversial issues in the context of para. 339C(iii), it is necessary consider:

a. in relation to sufficiency of protection, *R (oao Bagdanavicius) v Secretary of State for the Home Department* [2003] EWCA Civ 1605 at para. 5 (of the judicial summary); and *McPherson v Secretary of State for the Home Department* [2001] EWCA Civ 1955 at para. 36, "Art 3 requires a State to

provide machinery to deter a violation of that article which attains a satisfactory degree of effectiveness… "; and

b. in relation to internal relocation, *Januzi v Secretary of State for the Home Department* [2006] UKHL 5 (take account of all relevant circumstances pertaining to the claimant to decide whether it is reasonable to expect the claimant to relocate or whether it would be unduly harsh to expect him to do so).

25. The applicable standard of proof is the lower standard, and the burden is on the appellant. He must demonstrate there is a real risk that he will be subject to mistreatment contrary to para. 339C(iii).

The hearing

26. The resumed hearing took place at Field House on 28 November 2024. The appellant participated through a North African Arabic interpreter, who appeared remotely. I established that the appellant and the interpreter could understand one another and communicate through each other. The appellant was accompanied by Mr N. Guyatt, his support worker from Kent County Council, who has supported him at all stages in this tribunal before me.

27. By a letter dated 18 November 2024, the appellant applied to rely on additional evidence pursuant to rule 15(2A) of the Tribunal Procedure (Upper Tribunal) Rules 2008. That evidence consisted of the Galappathie Report, a country expert report by Alison Pargeter ("Pargeter 1"), and a number of Egypt country reports. He also applied to rely on an updating witness statement dated 25 November 2024. There was no objection from Ms McKenzie. I admitted those materials.

28. The parties initially submitted that the hearing should proceed on the basis of submissions only. Ms McKenzie relied on the refusal letter dated 16 September 2022, contending that the appellant would enjoy a sufficiency of protection within Egypt, and the ability to relocate internally.

29. During her closing submissions in response to Ms McKenzie, Ms Solanki decided to rely on some matters within the appellant's updating witness statement. I permitted her to do so, and the appellant then adopted his statement. In the interests of fairness, I permitted Ms McKenzie to cross examine the appellant. That then necessitated providing Ms McKenzie with the opportunity to make submissions arising from the appellant's oral evidence, and a further response from Ms Solanki.

30. The day after the hearing, the appellant made further submissions in writing. I had neither directed nor permitted such additional directions, but in the interests of fairness I decided to admit them since I remained seized of the decision. I provided the Secretary of State with the opportunity to make written submissions in response. On 16 December 2024, the appellant submitted a further country expert report from Ms Pargeter ("Pargeter 2"). Again, this had neither been directed nor permitted. Again, I remained seized of the proceedings, primarily because of the need for additional directions following Ms Solanki's post-hearing submissions received on 29 November 2024 had meant that my reserved decision could not be drafted at that stage, and decided to admit the report. I directed that the Secretary of State would have until 31 December 2024 to make any submissions in response. The Secretary of State did not submit a response or apply for an extension of time. I address these additional materials and submissions below.

Accepted and preserved findings of fact

31. The events at the heart of the appellant's claim for humanitarian protection took place when he would have been 15 years old. In her decision dated 16 September 2022, the Secretary of State accepted the appellant's claimed nationality, his claim to have entered a relationship with N, and his account of having sought, unsuccessfully, to proposition N for marriage. The decision accepted that the claimed secrecy with which the appellant conducted the non-sexual relationship with N was consistent with the socially conservative attitudes and social structures in Egypt. It accepted that the appellant was in a relationship with N, that his proposal was rejected, and that he was warned to stay away from her on account of its rejection. The decision rejected the other parts of the appellant's claim.

32. Judge Turner accepted the appellant's account of having been caught by N's father in N's bedroom (para. 17), the appellant's accounts of the dates when key events took place and when he left Egypt (paras 17 to 21), the fact that N's family threatened the appellant (para. 22), the appellant's experience as a male victim of honour-based violence (para. 23), and the fact that the appellant's credibility had not been harmed by his decision to flee the country (para. 24). Judge Turner accepted the appellant to be a credible witness. Those findings represent the starting point for my analysis.

Findings of fact

33. I reached the following findings to the lower standard, having heard and considered the entirety of the evidence in the case, in the round, to the lower standard. I have calibrated my assessment of the appellant's evidence by reference to his mental health conditions and his age at the time of the key events in Egypt.

34. I will structure my analysis by considering, first, the medical evidence, secondly, the country evidence, and finally the appellant's own evidence, in the round, to the lower standard.

The Galappathie Report

35. The Galappathie Report summarised the appellant's health history and presentation. Dr Galappathie said that the appellant presents with PTSD symptoms and flashbacks from having to leave Egypt and the distressing journey to the UK (para. 35). The appellant is a regular user of cannabis, consuming around 3.5g every two to three days (para. 37). He had not been to see his GP about his mental health conditions, but had in the past made superficial cuts to his arms, but had not attempted suicide (para. 41).

36. The Galappathie Report summarises what it describes as an "initial health assessment" by a Dr Lebbe dated 16 September 2019 [*sic*]. I have not been provided with a copy of that assessment. The appellant arrived in the United Kingdom in 2021, so the date must be a typo, since Dr Galappathie's summary of it refers to that report having stated that there were no concerns for the appellant at his placement, which appears to mean his placement in the United Kingdom.

37. The Galappathie Report concluded that the appellant is experiencing a single depressive episode of moderate severity without psychotic symptoms (see para. 72 ff). At para. 78, Dr Galappathie addressed the conclusions of the assessment conducted by Dr Lebbe, which reported that the appellant was generally healthy and happy. Dr Galappathie considered that the appellant does not appear to have been depressed at the time of that review, and that his condition had

deteriorated in the time that had elapsed since. Dr Galappathie said that it was understandable that the appellant had not returned to his GP in connection with his mental health conditions, since he, the appellant, had reported that he was unable to face making an appointment, which is likely to be due to anxiety about consulting his GP.

38. The Galappathie report also concluded (para. 83) that the appellant experiences post-traumatic stress disorder. Dr Galappathie attributes the symptoms to the events in Egypt and the traumatic journey the appellant had to endure in order to travel to the United Kingdom. The threats to kill made by N's family were also a factor (para. 84).

39. Although I have not been provided with the appellant's GP records, it appears from Dr Galappathie's discussion at para. 88 that there is no mention of the appellant's anxiety, depression or PTSD symptoms in those records. Dr Galappathie said that that could be due to the short time periods available to general practitioners for consultations, and the focus on diagnostic treatment rather than categorisation. PTSD also induces avoidance, which could be a further explanation, in addition to the language barrier.

40. At para. 92, the Galappathie Report concluded that the ongoing uncertainty arising from the appellant's immigration status, and his fear of being returned to Egypt, is likely to have had a detrimental impact on his mental health.

41. Dr Galappathie concluded that the appellant presented with a risk of self-harm and suicide, indicated by the risk factors and his depression, PTSD and associated anxiety symptoms. While the impact of the appellant's health conditions is not relevant to any Article 3 claim the appellant may advance, they are relevant to the issue of whether it is reasonable to expect him to relocate within Egypt in order to avoid the threat posed by the family of N.

42. I accept the conclusions of the Galappathie Report. However, it is significant that the appellant has thus far not sought assistance for his mental health conditions from his GP. While Dr Galappathie concluded that the appellant's stigma may be acting as a barrier, and that language difficulties may also provide an explanation for that, his GP records (as summarised by Dr Galappathie) recalled that he has sought assistance for at least two conditions relating to other aspects of his health while in the United Kingdom. It follows that, while I accept Dr Galappathie's overall conclusions, when conducting my forward-looking assessment of the appellant's prospective reception in Egypt upon relocating internally, I must take into account these factors. Dr Galappathie did not expressly address the impact of the appellant's cannabis consumption on his mental health, so I assume that he must have considered it to be negligible (if so, that would be a surprising matter to leave to inference alone, but since the Secretary of State neither criticised this aspect of the report nor commissioned her own report, I do not take this issue into account against the appellant).

Pargeter 1 and 2

43. Ms McKenzie did not seek to challenge either of the Pargeter reports. I accept them as being authoritative and reliable. Ms Pargeter has previously been accepted as providing helpful and reliable expert evidence in this jurisdiction, and I see no reason to approach her evidence any differently.

44. Pargeter 1 addressed the plausibility of the appellant's underlying claim by reference to her knowledge of Egypt and supporting materials. The Secretary of State did not invite me to depart from the starting point of Judge Turner's

preserved findings of fact in relation to the plausibility of the appellant's case in light of Pargeter 1, and I do not do so.

45. The import of Pargeter 1 is that a prominent, wealthy family would be unlikely to resort to honour killing (para. 2.2), and that such families would be likely to conceal and deny any scandal (paras 2.3, 2.4). Usually only less educated, rural families would seek to exact revenge (para. 3.2). Males can often flee the area to evade vengeance (para. 4.1). Reaching agreement between families is more common (para. 4.2). Where agreement could not be reached, vengeance would carry the risk of arrest and prosecution for the avenging family (para. 4.1). Applied to issue (i) in these proceedings, Pargeter 1 suggests that N's family are unlikely to pursue the appellant beyond their home area, and that they would be unlikely to embroil themselves in a revenge killing of the sort feared by the appellant (para. 7.4).

46. Even taking Judge Turner's findings as my starting point without departing from them, these conclusions are relevant to the extent to which N's family would seek to pursue the appellant in another part of Egypt. In short, it would be inconsistent with their social status and standing, and Egyptian cultural norms, for them to do so. Pargeter 1 concluded that it would be open to the appellant to relocate to another part of the country in order to avoid any residual risk he continues to face (para. 8.1).

47. Pargeter 1 also addresses the issue of sufficiency of protection. It summarises the pro-male, anti-female bias of the Egyptian authorities (para. 5.1), and the tendency to treat incidents of this nature as domestic matters. The approach of the local law enforcement authorities would be likely to advise the appellant to relocate within the country, in the event he were to make a complaint about N's family (para. 5.3). The police would investigate any reports the appellant made against N's family if he were actually attacked or harmed (para. 5.3).

48. The main import of Pargeter 1 lies in its conclusions pertaining to the appellant's ability to establish himself in another part of Egypt in the face of very high levels of youth unemployment. The appellant has limited education and no formal skills. It will, according to Pargeter 1 at para. 8.2, be challenging for him to find work. In turn, that will make it challenging to obtain any form of social assistance benefits from the Egyptian government. He will also struggle to find accommodation. There is a risk that the appellant would be homeless and destitute if he were not able to find work that would enable him to afford adequate accommodation (paras 8.6 to 8.8). His mental health conditions will make it harder for him to secure work and accommodation, and render him vulnerable to exploitation (para 8.9).

49. Against that background, I turn to Pargeter 2. At the hearing on 28 November 2024, I queried with Ms Solanki whether Ms Pargeter's report should have engaged with the prospect of the appellant returning with financial assistance from the Secretary of State. It was to this issue that Ms Solanki's post hearing written submissions were addressed. Ms Solanki submitted that the Secretary of State had at no stage raised the prospect of such voluntary assistance being a relevant factor in the context of the appellant's relocation, and that the appellant would not voluntarily return in any event.

50. I respectfully disagree with the proposition that this issue had not been raised by the Secretary of State. The final page of the refusal letter stated:

> "**Help and advice on returning home**

> You can contact the Voluntary Returns Service (VRS) for help and advice on returning home. The VRS can discuss the status of your case and the next steps in your departure from the UK.
>
> The VRS can provide practical support - from providing access to a passport or emergency travel document, purchasing your flight ticket or help to arrange a complex return with reintegration support for those who are eligible. Please contact the VRS team to obtain practical support regarding your return.
>
> **Contact the Voluntary Returns Service**
>
> Online: www.gov.uk/return-home-voluntarily/
>
> Telephone: 0300 004 0202 (Monday- Friday between 09.00 and 17.00)".

51. Judge Turner referred to the prospective availability of such assistance at para. 31.

52. Ms Solanki's stronger point in this respect is that the appellant would not be returning voluntarily. It was held at para. (i) of the headnote to *SA (Removal destination; Iraq; undertakings) Iraq* [2022] UKUT 37 (IAC) that "removal" in section 84 of the 2002 Act refers to enforced (rather than voluntary) removal. The Secretary of State has at no stage in this litigation addressed the possibility of providing financial assistance to the appellant in the event of his *involuntary* return. I must therefore address his prospective removal on the footing that he will not receive equivalent support to that which would be available from the Voluntary Returns Service. If such support was available, the conclusions of Pargeter 2 would be highly relevant. In summary, the appellant would be able to sustain himself for at least a year, with accommodation and living expenses commensurate to that enjoyed by a mid-level civil servant. That would plainly be relevant to any assessment of whether it would be unduly harsh for him to relocate internally. But as things stand, the Secretary of State has not sought to rely on the prospect of financial assistance being available to the appellant upon his return, and I see no basis to conclude that the appellant's *involuntary* return would entitle him to the provision of support available only to *voluntary* returnees. The Secretary of State did, however, rely on the prospective assistance available to the appellant from his family, which is a matter I address below.

Conclusions on the country materials

53. In light of Pargeter 1, considered in the round in the context of the preserved findings of fact, I conclude that the appellant would, in principle, be able to relocate to another part of Egypt. It is unlikely that N's family would seek to pursue him away from their home area, since doing so is inconsistent with the manner in which wealthy elite families tend to act. If they were to do so, the appellant would enjoy a sufficiency of protection. The initial focus of the police, in the appellant's home area, would be to suggest relocation as a pragmatic means to address the problem (see below for my analysis of the appellant's evidence of the police's alleged continued interest in him). The materials to which I have been taken demonstrate that, for male citizens of Egypt, the police are likely to take an enduring threat seriously, notwithstanding the corruption and difficulties in some parts of the police and judicial system. It is unlikely that a family such as N's family would seek to corrupt the authorities, especially elsewhere in Egypt. The materials do not demonstrate that there is only 'after the event' law enforcement, but rather demonstrate the existence of a sufficiently robust

protective framework which prohibits violence of the sort the appellant fears. That is supported by Pargeter 1's conclusion that a family such as N's would be unlikely to continue to seek vengeance throughout the country in the manner feared by the appellant. That is, in part, due to the effective law enforcement framework that exists in Egypt. There is also no evidence to demonstrate that N's family would be able to track him down elsewhere in the country.

54. The essential question is, therefore, whether it would be reasonable or unduly harsh to expect the appellant to relocate, in light of his circumstances?

The appellant's evidence

55. In his updating witness statement, the appellant said that he remains in contact with his parents, in particular his mother, and had spoken to her relatively recently (he had recently spoken to his father for a short period, but his father is seriously ill: see para. 11). Contact is difficult and his mother does not have a smart telephone. The appellant reported that his mother told him that N's family continue to pursue him on the basis that he destroyed their daughter's life and future, because N is now no longer able to marry. The police visited his home in Egypt in November 2023, and again in either May or June 2024. The police spoke to his father and threatened to arrest him in the event that the appellant is not found.

56. Despite the earlier finding by Judge Turner that, on the appellant's evidence at that time, the appellant was credible, I have some credibility concerns with this evidence, even making due allowances for the appellant's vulnerability.

57. First, it is inconsistent with Pargeter 1 for the police to continue to search for the appellant, in light of the systemic deficiencies and the police's attitude towards the female victims of honour-based violence. Pargeter 1 concluded that the police are less likely to pursue such matters in favour of the female victim, and are more likely to view such disputes as domestic matters. The appellant's account is inconsistent with this aspect of the background evidence.

58. Secondly, the appellant has not provided any documentary evidence, of the sort which would be realistically obtainable (such as a copy of any police correspondence, or the complaint), despite his latest witness statement having been prepared with the assistance of his current legal representatives. Under cross-examination, the appellant said that his friend "Ali" sent him some copies of police records pertaining to the investigation that has been opened into him in Egypt. He said that he had sent these documents to his solicitor but he had been advised that they would not have been of any benefit to his case. I reject that evidence. It would be highly surprising if any advice along those lines had ever been given; such evidence would plainly be highly relevant to this claim, and advice of that nature would be highly irregular. I find that the appellant's present representatives, who have pursued his claim with diligence and determination, would not have given such advice. The reality is that the appellant has claimed that documentary evidence of the police interest in him exists, and has given an unsatisfactory explanation for why it is not before this tribunal. There is no evidence from "Ali".

59. Thirdly, the appellant's evidence that N's family's position that N is somehow tainted from the encounter with him is inconsistent with Pargeter 1's conclusions that many families seek to resolve situations such as this on a pragmatic basis, through marriage or otherwise moving on. There is no suggestion that a child would be tainted for life, as the appellant has recently suggested has happened to N.

60. However, even assuming that the appellant's account can be accepted to the lower standard, taken at its highest it merely demonstrates that the appellant continues to be of interest to N's family in his home area. This aspect of the appellant's evidence says nothing of his ability to relocate within Egypt.

61. The remaining matter for me to resolve is whether the appellant's broader circumstances and health conditions are such that it would be unduly harsh for him to relocate internally.

62. I conduct this assessment on the footing that he would not receive support from the Secretary of State's Voluntary Returns Service, as explained above. However, the appellant continues to have family in Egypt. His uncle is clearly a man of some means. He supports the appellant's parents with gifts of grain, and it was he who arranged his journey to the United Kingdom, which would have been very expensive, having been initially by air to Turkey, and then under the instruction of people smugglers over land. The appellant lived with his uncle when he first fled the family home when in fear of N's family. The appellant will, I find, be certain to enjoy in-country support from his wider family, as contended at para. 67 of the Secretary of State's decision. His family will assist him with any task of relocating within Egypt, just as they assisted him with his journey to relocate to the United Kingdom. While the appellant asserted in his updating witness statement that his uncle would not be able to support him, I prefer the Secretary of State's case as advanced in the refusal letter on this issue. His family supported him in the past. He continues to be in touch with them. I am sure that they will support him in the future. The concerns raised in Pargeter 1 about the appellant's claimed inability to subsist elsewhere in Egypt do not have the force they otherwise would have in light of the in-country support that will be available to the appellant.

63. In addition, the appellant has engaged in training and studies in the United Kingdom. He will return to Egypt with the benefit of that academic experience, and some English skills. Those factors will help him upon his return. The fortitude he demonstrated in travelling to the UK and entering clandestinely, and establishing himself here thereafter, will place him in good stead when relocating within Egypt.

64. I do not consider that the appellant's mental health conditions will render his relocation elsewhere within Egypt unduly harsh. He has not sought medical help for his conditions here, and, shortly after his arrival, presented without the symptoms he now exhibits. He was assessed by Dr Lebbe to be in good health. Some of his anxiety relates to the uncertainty arising from his present status and the stress of being involved with these proceedings; that anxiety appears to have augmented with the length of his stay. Upon his return, any objective foundation to those concerns will fall away. He will be able to work (which he cannot do here), and will enjoy the full panoply of rights to which citizens of Egypt are entitled. He will be in the same country as his family, and will be able to reconnect with them face-to-face in a manner that he has not been able to previously, for example through hosting visits in his new area, or meeting up in neutral parts of the country. The uncertainty that hangs over the appellant's life at this time will no longer characterise his existence. To the extent he continues to need medical treatment for his mental health conditions, but does not obtain such help, his situation will be no different to that which presents at the moment, since he has not sought medical help for his mental health while in the UK, despite being able to, and despite being supported by Kent County Council, in particular by Mr Guyatt, his support worker, who attended all hearings before me. While the appellant may experience a degree of subjective fear from N's family,

nothing in the materials before me demonstrates that such a fear would prevent him from engaging with a new life elsewhere in the country, especially with appropriate support from his family.

65. I therefore conclude that the appellant will be able to relocate within Egypt. It will not be unduly harsh for him to do so. N's family will not, I find, pursue him to elsewhere in the country. They will have no means of locating him throughout Egypt, but even if they did, he would enjoy a sufficiency of protection from the police through the criminal law generally and adequate systemic law enforcement provision.

66. The appellant does not advance a separate human rights claim.

67. I therefore dismiss this appeal on protection and human rights grounds.

Notice of Decision

The decision of First-tier Tribunal Judge Turner involved the making of an error of law and is set aside.

I remake the decision, dismissing the appeal on protection and human rights grounds.

Stephen H Smith

Judge of the Upper Tribunal
Immigration and Asylum Chamber

2 January 2025

Annex – Error of law decision

Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: UI-2024-001163
and PA/00901/2022

THE IMMIGRATION ACTS

Heard at Field House **Decision & Reasons Promulgated**

On 24th May 2024

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Before

UPPER TRIBUNAL JUDGE STEPHEN SMITH
DEPUTY UPPER TRIBUNAL JUDGE HANBURY

Between

MAS
(ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Order Regarding Anonymity

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.

Representation:

For the Appellant: Unrepresented
For the Respondent: Mr Tufan

DECISION AND REASONS

Introduction

1. This is an appeal by the Secretary of State for the Home Department who will be referred to as “the respondent”, notwithstanding his status is as appellant before the Upper Tribunal (UT). The appellant before the First-tier Tribunal (FTT) will continue to be referred to as the “the appellant” in this tribunal.

2. The respondent appeals to the U T from the decision of FTT Judge Turner (the judge) to allow the appellant’s protection appeal on humanitarian protection grounds. In her decision promulgated on 20 February 2024 the judge also dismissed the appellant’s asylum appeal but there is no cross appeal against that decision. The respondent’s appeal is within time. In his grounds, the respondent cited a number of areas where errors had been made by the judge and asserted that the judge had failed to give adequate reasons for her decision.

3. The respondent appeals with permission from FTT Judge Curtis who, on 13 March 2024, found that there to be potentially flawed reasoning in the decision and no proper assessment as to the future risk on return, which the judge had found to be present. Furthermore, the decision of the (FTT) had not adequately considered the prospects of internal relocation.

The hearing

4. As the appellant appeared without representation and as English was not his first language the panel had to take appropriate steps to explain the procedure to him. He was accompanied by Nick Guyatt, who works for Kent County Council social services department. After initial introductions, the appellant explained through the on-line Arabic interpreter who had been booked, that it had not been possible to secure such representation, and that it would be unlikely that, given time, he would ever be able to afford to do so. The panel treated the appeal as effective and not one where there was no application for an adjournment to instruct solicitors, or where it was appropriate for the panel to consider granting an adjournment of its own motion. Judge Smith outlined the case for the respondent in clear language so that the appellant understood what was alleged in relation to the findings of the FTT.

5. Mr Tufan explained that the background to the appeal was the appellant’s alleged relationship, in Egypt, with a girl known as “N”. He said that both the judge and the respondent accepted that such relationship had existed but the appeal turned on the extent to which the appellant would be at risk on return from the girl’s family. The respondent’s case was that there was no threat, indeed, the evidence before the FTT suggested that any such threat had passed. In any event, there was sufficiency of state protection and/or the appellant could internally relocate to avoid N’s family. The appellant’s own evidence was to the effect that following the initial confrontation there had not been any incidents. Furthermore, the appellant had not had sexual relationship with the girl (see question

number 12 in the asylum interview record). It was submitted by the respondent that although the girl's family did not like what had happened, there was no evidence "whatsoever" that the family's intended to harm the appellant. The judge made findings on the basis of the limited evidence available but her reasons were inadequate. She concluded that the that the police would not know about the appellant as there was no evidence that the family had connections with the police nationwide within Egypt. Therefore, there was no basis for finding that the appellant was at risk on return which ever area he lived in. The appellant's case is therefore based on speculation. Particular reference was made to paragraph 33 of the decision, which states that there had been "no further issue from N's family". The judge went on to say that the appellant was of "no ongoing interest" but nevertheless N's family "may be aware that the appellant has left the country due to access to intelligence and maybe awaiting his return". The judge went on to say that if the appellant were to be returned to Egypt and N's family became aware of that fact they would tend to carry out any threats made (none having been found to have been made so far). The judge went on to say: "the appellant would have little chance to access protection in the circumstance *sic*" (paragraph 35 at page 12 of the PDF copy of the bundle). Therefore, the judge simply concluded to the "lower standard that the appellant could not internally relocate to remove the risk of serious harm or persecution".

6. In order to assist the appellant with his response Judge Smith explained that the respondent's case was that:

   (i) N's family were no longer interested in the appellant;

   (ii) There was no reason why the appellant should not return to live in Egypt;

   (iii) Further, or alternatively, if there was some fear he could move to a different area.

7. Judge Smith also explained those three grounds in some detail to the appellant.

8. Following the outline of the respondent's case, the appellant said that he thought N's family had "connections in the area" and he believed that they may be able to contact others in different parts of Egypt but he did not feel he could speculate as to what they would or would not do.

9. Judge Smith explained that the hearing was to decide whether the judge made "a mistake" of law, not whether the UT would have come to a different conclusion than the FTT. However, he also explained that the Home Office were entitled to understand the reasons why the appeal to the FTT had been allowed. The respondent had said that there were inadequate reasons for the decision. Given an opportunity to argue why the UT should dismiss the appeal, the appellant simply said he "did not know" of any.

10. Mr Guyatt explained that steps had been taken to obtain legal representation for the appellant but these had not been successful.

11. At the end of the hearing the panel announced its decision to allow the respondent's appeal. However, it was considered appropriate to hold another hearing at which updating evidence could be given. The appeal is to be relisted on 3 July 2024 at 10 AM before Judge Smith. It is to be given a three-hour time estimate and the appellant is to be provided with the North African Arabic interpreter. The appellant was reminded of his right to obtain suitable legal representation at the adjourned hearing and that there are charities and other organisations that might be able to assist the appellant.

Discussion

12. The judge's conclusion (in paragraph 33 of her decision) that the appellant was not of ongoing interest to N's family does not appear to be consistent with the suggestion that they would access intelligence and "may be awaiting his return". The finding that there were "no further issues with N's family" should have been conclusive.

13. Applying the low standard of proof that applies to the protection claim, it does not appear "plausible" that N's family would "discover the appellant" on his return and such conclusion appears unsupported by evidence.

14. More importantly, there was no evidence before the FTT that N's family had particular connections with the police, as the as the judge seems to have found at paragraph 35 *et seq*. In the absence of any particular grip on the country's police services, or a particular level of wealth by which they could bribe offices in other areas, it is difficult to see how the judge could conclude that any threats made to the appellant in his home area of Egypt would be carried out in another part. On that basis there is little evidence on which the judge could properly conclude that that the appellant had "little chance to access protection" if N's family came looking for him.

15. The judge appears to have been given no reason for concluding that police would be aware of the appellant's presence in a different area if he did internally relocate. Indeed, the judge found it was "not persuaded" that N's family had connections with the police in "other areas". The fact that N's family would be unlikely to give the appellant any warnings that they intend to carry out threats appears to have been thought by the judge sufficient to fear that the appellant would not be able to access protection. This is a flawed analysis of the opportunity to seek internal relocation in a large country where there may be many parts in which the appellant is unknown.

16. There was no evidential basis for the conclusion (at paragraph 34) that N's family "could discover the appellant's return via their connections". There is no finding:

(i) As to what those connections were; or

(ii) How they would discover his return;

(iii) How they would disseminate their knowledge of his return; and

(iv) How they would be able to control or manipulate the authorities to it to enforce any form of control over the appellant.

17. The judge refers to the CPIN Egypt: Egypt: Marriage, April 2022 at paragraph 27 but, having noted that it tended not to support the appellant's case, ought to have concluded that the appellant was not at risk on return from non-state actors given the burden of proof rested on the appellant. In any event the judge noted at paragraph 38 the lack of evidence to support the contention that non-estate agents were seeking the appellant out and she did not accept that he formed part of a particular social group.

Conclusion

18. In the panel's view the judge was entitled to dismiss the asylum claim for the reasons given, but there were a number of problems with the advancement of the humanitarian protection claim as well and the judge's reasoning gives rise to material errors of law. Specifically, we find a material error of law in the reasoning in relation to the appellant's risk on return and/or the risk and/or the reasonable prospects of his relocation to a different part of Egypt. Those findings of fact appear inadequate or incomplete rather than defective, although there are errors of logic. Accordingly, the panel concludes that it should preserve the findings of fact made by the judge concerning what took place in Egypt prior to the appellant's departure, specifically those at paragraphs 16 to 24, which the Secretary of State has not challenged. Those findings include the judge's rejection of the Secretary of State's concerns about apparent inconsistencies in the appellant's account (paras 16 to 21), the findings that N's family threatened the appellant (para. 22), the reaction of N's family to the appellant (para. 23), and the fact that the appellant's credibility has not been harmed by his departure from the country, rather than contacting the police, in light of his age (para. 24).

19. That decision will need to be re-made after a further hearing at which the appellant will be at liberty to adduce additional evidence not adduced before the FTT, which will be limited to any evidence to update the UT. The focus of the hearing in the Upper Tribunal will be whether the appellant can relocate to another part of Egypt and whether he can expect sufficient protection from the police elsewhere in the country.

20. The appellant may wish to provide the Upper Tribunal with evidence concerning the extent to which a family such as N's would be able to enlist the assistance of the authorities throughout Egypt in order to pursue the appellant, if they were minded to do so. He should also focus on (i) the protection the authorities can provide him throughout Egypt, and (ii)

whether it would be reasonable for him to relocate to a part of Egypt away from his home area, upon his return.

21. The case is to be retained within the UT for this purpose.

Notice of Decision

The appeal is allowed. The decision of the First-tier Tribunal is set aside. The findings of fact summarised at para. 18, above, are preserved.

[Remaining directions omitted from this version.]