



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2022-002417

On appeal from:
First-tier Tribunal No: PA/01472/2020

THE IMMIGRATION ACTS

Decision & Reasons Issued:

On 14th of June 2024

Before

UPPER TRIBUNAL JUDGE HANSON
DEPUTY UPPER TRIBUNAL JUDGE JUSS

Between

D.R.Z.I.
(ANONYMITY ORDER MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr J Gajjar (Counsel)

For the Respondent: Mrs Arif (Senior Home Office Presenting Officer)

Heard at Birmingham Civil Justice Centre on 22nd May 2024

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.

DECISION AND REASONS

1. This is an appeal against the determination of First-tier Tribunal Judge Mills, promulgated on 18th March 2022, following a hearing at Birmingham Civil Justice Centre. In the determination, the judge dismissed the appeal, whereupon the Appellant applied for, and was granted, permission to appeal to the Upper Tribunal, and thus the matter comes before us.

The Appellant

2. The Appellant is a citizen of Egypt, born on 7th April 1984, and is a female. She appealed against the decision of the Respondent, dated 17th January 2020, refusing her claim for asylum and humanitarian protection.

The Appellant's Claim

3. The essence of the Appellant's claim is that she fears ill-treatment and persecution in Egypt on account of being a Coptic Christian, and that threats to her life emanate, both from the Muslim Brotherhood and the Egyptian government.

The Judge's Findings

4. The decision of Judge Mills dated 18th March 2022 was one amongst a line of other previous decisions. When the Appellant first arrived in the UK on 1st November 2014 she did so on the basis of a Tier 4 (General) Student visa. She had first claimed asylum on 13th January 2015. When this was refused an appeal had been heard by FtTJ Sangha and a decision issued on 29th March 2016 refusing her appeal. Thereafter in 2016 and 2018 the Appellant made further submissions to the Respondent, and did so again on 4th December 2018, which were the subject matter of a refusal on 17th January 2020. The evidence this time around was based on two separate classes of documents. The first class consisted of a letter from a lawyer in Egypt, Mr Ramy Jamal Sabry, and the second class consisted of copies of an "Egyptian Court Judgment", which was from the Court of Cairo North, Civil, Commercial and Personal Status Division. This referred to a hearing on 7th September 2016 following which the Appellant was sentenced to death for the crime of apostasy.
5. The Respondent had refused the claim on the basis of these documents, because they were photocopies and there was no explanation as to how the Appellant came by them, for her submissions of 4th December 2018. In short, the Respondent did not accept the documents to be genuine. When the Appellant appealed against that decision it was heard by FtTJ Hussain in a decision promulgated on 17th March 2021. The appeal was dismissed and, permission to appeal was granted by the First-tier Tribunal on 12th May 2021, and Judge Hussain's decision subsequently set aside by the Upper Tribunal on 28th September 2021. It was directed that the appeal be heard *de novo* by the First-tier Tribunal. It was in this way that the appeal came to be heard by FtTJ Mills when it was promulgated on 18th March 2022.
6. The decision of Judge Mills, which is the subject matter of this appeal before us, was challenged on four grounds. These were:
 - (i) that the decision with respect to the documents relied upon by the Appellant was irrational;

- (ii) the decision was vitiated by procedural unfairness because the Appellant was not given an opportunity to address any concerns regarding the evidence of the Egyptian lawyer, with there being a good explanation provided for why a Power of Attorney was not made;
- (iii) Judge Mills had wrongly referred to the relationship between the Appellant and her partner as “material” relationships when the correct question was whether the relationship was genuine and subsisting; and
- (iv) Judge Mills had failed to have regard to the photographs which established that the couple had met, together with the son of the Appellant’s partner.

On 13th May 2022, FtTJ Lodato granted permission.

7. In his decision, Judge Mills had referred to the previous decision of Judge Sangha. It was not in contention that the Appellant was a Coptic Christian. However, both judges had previously held that the Appellant would not be at risk upon return and Judge Mills though also concluded that the Appellant did not fall into any of the risk categories identified in the country guidance in relation to Coptic Christians. Judge Mills had also considered the Appellant’s Article 8 claim regarding her relationship with a Mr BR, who was an Iraqi national who had already been granted refugee status in the UK, and his son was a British national. Judge Mills had accepted that the Appellant lived with BR since 2016 and accepted that there was a subsisting relationship between them. What was not accepted was that the Appellant had established a “family life or material relationship”, because neither the Appellant nor her partner had been able to give credible oral evidence as to how they maintained contact with the Appellant’s son, known as A.
8. Given that permission to appeal had been granted, the appeal was heard by UTJ Mandalia on 23rd May 2023. In a decision promulgated on 9th November 2023, the judge observed that Judge Mills had not been assisted in his task by the manner in which the evidence was presented to the First-tier Tribunal with respect to the documents. UTJ Mandalia noted that,

“It only became apparent during the course of the hearing before me, as I went through the documents and various anomalies, that the copy of the ‘court document’ that the appellant claims was sent to her via courier in May 2021, was essentially the same as the document previously disclosed and relied upon by the appellant save in one material respect. The document now relied upon is endorsed as being a ‘certified true copy of the court ruling’. It is not entirely clear from the decision of Judge Mills whether he appreciated that there is now what purports to be a certified true copy of the court record. I cannot in the end be satisfied that he would have concluded that no weight can be attached to the documents if he had appreciated that there was what purports to be a ‘certified copy’ before the Tribunal” (at paragraph 21).
9. On that basis UTJ Mandalia went on to conclude that, “That is sufficient for me to be satisfied that the decision of Judge Mills must be set aside”, although he

was careful also to make it clear that this was not to say that all criticisms of the decision made by the Appellant's side were sustainable because,

"It is now well established that that in asylum and human rights cases it is for an individual to show that a document on which he or she seeks to rely can be relied on and the decision maker should consider whether a document is one on which reliance should properly be placed after looking at all the evidence in the round" (at paragraph 22).

Submissions

10. At the hearing before us on 22nd May 2024, we began by asking Ms Arif for the Respondent, what her view was in relation to the documentary evidence given the decision of UTJ Mandalia. She submitted that the Respondent accepted the validity of the court order because it was a certified document of a death sentence, a court order. However, it remained up to this Tribunal to decide whether the document was genuine. As for the second issue, namely, the Appellant's Article 8 claim regarding her relationship with her partner, it was not accepted that there was a genuine relationship between the Appellant and her partner's child, 'A', because they had not seen each other since the Covid pandemic. For his part, Mr Gajjar submitted that he would have no more to say other than to rely upon his detailed skeleton argument.

Conclusions

11. We do not consider it necessary to deal with every aspect of the grounds but we assess what we consider to be the main features of the grounds.
12. There is authority about how the Tribunal should treat a document emanating from an official source which is certified and one which is on the face of it in conformity with the objective evidence. We conclude this to be the case here. We also find that this is a document that is in conformity with the way in which people accused of blasphemy are treated. We have concluded that on the basis of imputed religious opinion the Appellant succeeds under the Refugee Convention. It is unnecessary to consider the other appeal grounds. In the certified court order it is clear that the Appellant stands accused of having "apostatized" and the Appellant is sentenced to death by execution (see E13).

Decision

13. The decision of the First-tier Tribunal, having been found to have involved the making of an error of law such that it was set aside, has been re-made. This appeal is allowed.

Satvinder S. Juss

Deputy Judge of the Upper Tribunal
Immigration and Asylum Chamber

4th June 2024

Appeal Number: UI-2022-002417
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