



**IN THE UPPER TRIBUNAL**  
**IMMIGRATION AND ASYLUM CHAMBER**

**Case No: UI-2021-001733**  
**First-tier Tribunal No:**  
**PA/04529/2020**

**THE IMMIGRATION ACTS**

**Decision & Reasons Issued:**  
**On the 29 April 2023**

**Before**

**UPPER TRIBUNAL JUDGE HANSON**  
**DEPUTY UPPER TRIBUNAL JUDGE SILLS**

**Between**

**ENAE**  
**(ANONYMITY ORDER MADE)**

Appellant

**and**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr Wood  
For the Respondent: Mr Diwnycz

**Heard at Manchester Civil Justice Centre on 6 February 2023**

**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.**

**ERROR OF LAW - DECISION AND REASONS**

**Introduction**

1. The Appellant appeals against the decision of Judge Lang (the Judge) dated 25 October 2021, in which the Judge dismissed the Appellant's appeal on asylum, humanitarian protection, and human rights grounds.

**Factual Background**

2. The Appellant is an Egyptian national. She arrived in the UK in August 2017 and made her first claim for asylum then. She claims to be at risk as a Coptic Christian due the fact that her husband had been accused of proselytising a Muslim woman. Her initial claim was refused on 16 February 2018 and her appeal was dismissed by Judge Alty in May 2018.
3. Judge Alty accepted that the Appellant and her husband were Egyptian Coptic Christians. The Appellant relied on police reports relating to an attack on her husband in 2013 and on herself in 2017. The Judge found that the documents were similar in format and language, and this was surprising given they were 4 years apart and from different directorates. Judge Alty did not find the documents reliable. Judge Alty noted the delay in leaving Egypt, the fact that the Appellant's husband left first, and that they returned to Egypt twice after leaving. Judge Alty noted that the Appellant's family had no problems between 2013 and 2017, and it was not clear why she would be targeted on return some 4 years later. The account was found not to be plausible and the claim to have been accused of proselytising was not accepted. The Appellant was not at risk on return as a Coptic Christian. Permission to appeal to the UT was refused by Judge Hanson and she became appeal rights exhausted on 17 January 2019.
4. The Appellant lodged further submissions in November 2019. These led to a further refusal decision on 27 August 2020. The appeal came before the Judge on 23 September 2021. The Judge states as follows in relation to the credibility issues in the appeal:
  41. *I find that there is no additional evidence provided to me in this appeal to address the lack of credibility findings made by the Judge in the previous FTT.*
  42. *I have a translated copy of a certificate from a lawyer dated 28 May 2018. This simply records what the lawyer was told by the Appellant and Appellant's husband. It is not independent, credible evidence to question the findings of the previous Judge on the factual matrix asserted. As such I placed a little weight upon it.*
  43. *In relation to the letter in support provided by the Archbishop of London. I am in no doubt of his expertise in this area however he cannot provide any independent evidence in relation to the alleged risk of persecution specific to the factual matrix asserted by the Appellant.*
  44. *The evidence before me in relation to the risk to the Appellant from K's family is no different to that before the Judge at the previous FTT. As such I find no reason to look behind his findings or depart from them. I adopt them here.*
5. The Appellant applied for permission to appeal. The grounds argued that in stating that the evidence before her was no different to that before Judge Alty, the Judge ignored evidence in the form of a letter from an Egyptian lawyer, and the expert report which considered the account to be plausible. Had the Judge not made this error, she could have reached a different conclusion. The Judge had also misconstrued the lawyer's letter. While the Judge stated that this was simply based on what the Appellant had told the lawyer, it is clear that the lawyer had also made his own enquiries of the public prosecutor. Further, there was a

failure to consider the contents of the lawyer letter in the round. The Judge also erred in relation to the findings made in the alternative on internal relocation.

6. In her grant of permission, Judge Beach found the Judge had been arguably wrong to state that the letter from the lawyer simply recorded what the Appellant and her husband had told the lawyer, as the letter stated that the lawyer had had contact with the public prosecutor. The Judge also arguably erred in finding that there was no new evidence in support of the claim, given that there was an expert report which considered the claim to be plausible.
7. The Respondent filed a Rule 24 notice opposing the appeal.

### **The Hearing**

8. Before us, Mr Wood noted that Judge Hanson had refused permission to appeal against the decision of Judge Alty. He did not suggest that Judge Hanson should recuse himself. There was in any event no basis for any such application. The fact that Judge Hanson found there to be no arguable error and refused permission to appeal in relation to the determination of the previous appeal does not compromise his position in relation to the question of whether a different judge in different proceedings made an error of law. In relation to the grounds, Mr Wood advanced the arguments set out in the grounds, that the Judge erred in assessing the lawyer letter and the expert report in particular. Mr Diwnycz argued that the Judge had not made any legal error. We reserved our decision.

### **Findings**

#### *Misconstrual of the lawyer letter*

9. The Appellant's first point is that the Judge has misconstrued the letter from the lawyer at p46 of the Appellant's bundle, by stating that the letter is simply based upon what the Appellant had told the lawyer. We accept this submission. While the first part of the letter records what the Appellant told the lawyer about two incidents, the final three paragraphs indicate that the lawyer was subsequently asked as to what had happened in the case. The letter indicates that the lawyer contacted the public prosecutor, who replied that no one had been charged and no perpetrator identified, that the paperwork would be saved, and that no further investigation would be conducted. So, while the translation is imperfect, the letter records not only what the lawyer claims to have been told by the Appellant, but also the steps the lawyer took, by making enquiries with the public prosecutor. Hence so far as the Judge states that the letter simply reflects what the lawyer was told by the Appellant, that statement is incorrect and amounts to a mistake of fact.
10. The Judge goes on to state that it is not independent, credible evidence to question the findings of the previous Judge on the factual matrix asserted. That statement must be based on the false assumption that the letter is simply recording what the Appellant told the lawyer. If reliable, the letter indicates that two complaints were made to the police by the Appellant and her husband, which would in our view, at least call into question the previous Judge's findings.
11. The difficulty for the Appellant on this issue, however, is that the actual police reports relied upon by the Appellant were not, so far as we can see, before the Judge. They are not in either the Appellant's or the Respondent's bundles. There is no suggestion from para 18 of the decision that there was any other evidence

before the Judge than that contained in the parties' bundles. The Judge makes no reference to seeing the actual reports. Judge Alty made specific observations about the similarity of the form of the two documents despite the second being issued four years after the first. The Appellant relied upon the additional evidence from the lawyer as evidence that two complaints were made to the police. It is difficult to see how the Judge could depart from Judge Alty's finding that the police reports, which she saw, were unreliable, without actually seeing the reports themselves.

12. Judge Alty raises two further issues with the reports. The first is the inconsistency between the Appellant's husband's statement that 'the police are all Muslims so they will turn on me', and the decision to file a report with the police stating he had been attacked after being accused of attempting to convert a young Muslim woman to Christianity. Second, Judge Alty also notes the inconsistency between the decision to report the incident to the police while also withholding the identity of the perpetrators. The Appellant has not explained why she states the issues were reported to the police at all given they withheld the known or suspected identities of the perpetrators from the police.
13. In view of these issue, we are satisfied that even if the Judge had correctly appreciated that the letter from the lawyer did not simply repeat what the lawyer had been told by the Appellant, the Judge would have reached the same conclusion. So, while para 42 does contain an error, we do not consider it to be a material error, as without sight of the police reports relied upon by the Appellant in particular, we do not consider that the Judge would have reached a different view on the reliability of these reports.

*Failure to consider additional evidence*

14. The Appellant also criticises the Judge's statement that there was:

*'no additional evidence provided to me in this appeal to address the lack of credibility findings made by the Judge in the previous FTT (para 41)'*

And the further statement that:

*'The evidence before me in relation to the risk to the Appellant from K's family is no different to that before the Judge at the previous FTT (para 44).'*

15. We agree that those statements are not correct in that there was a letter from the lawyer that was not before the previous Judge, along with the country expert report. However, we have already found that the letter from the lawyer was not capable of making a difference, given that the Appellant had not put copies of the actual police reports before the Judge. We reach a similar view in relation to the expert report.
16. While Judge Alty did not find the Appellant's account to be plausible, the expert report does not address the particular plausibility issues taken by Judge Alty. Judge Alty's plausibility concerns were that the Appellant's husband would wait until he had work in Qatar before fleeing, that he left the Appellant behind in Egypt, that the couple then twice returned to Egypt, and that after four years the Appellant and her family, rather than her husband's family, were targeted. The country expert report does not address these issues, save for the last point. The report considers that the attack on her husband in the street 'is in keeping with what one might expect'. However, that was not an issue taken against the

Appellant by Judge Alty. Further, in relation to the claimed abduction attempt against the Appellant, Ms Pargeter expresses surprise that Khadija's brothers would have been able to track the Appellant down. To be able to monitor and track the Appellant in this way they would need to be in an extremely high ranking position in the security services. It does not appear to have been suggested that anyone in Khadija's family had such a role. Further, it was also 'somewhat surprising that they would attack the Appellant rather than her husband given the sensitivities surrounding targeting women and children. Ms Pargeter would have expected the Appellant's husband to be the main focus of anger and attention (see para 6.4 of the report). In reality, the report of Ms Pargeter provides very little support to the Appellant's case concerning the credibility of the account, and indeed echoes the plausibility concern raised by Judge Alty concerning the attack on the Appellant.

17. So, while the Judge incorrectly stated that there was no additional evidence provided to address the previous credibility findings, the additional evidence provided did not adequately address the credibility issues taken by the previous Judge, so as to provide a basis for the Judge to reach a different view applying the Devaseelan guidelines. Similarly, while the evidence was different to that before Judge Alty, it was not significantly different. So as with the error in relation to the letter from the lawyer, we are satisfied that even if the Judge had correctly noted that there was additional and different evidence to what was before Judge Alty, she would have reached the same conclusions. We are fortified in this view by para 48 of the decision where the Judge states:

*In my judgement is there no information before me today to justify a departure from the findings of the previous FTT in relation to the factual assertions made by the Appellant or in relation to the wider risk.*

For these reasons, while the Judge's statements at paras 41 and 44 do contain errors, they do not amount to errors of law.

Internal relocation

18. As we have found there to be no error of law in relation to the assessment of the credibility of the account, the question of internal relocation does not arise and so there can be no error of law in the Judge's consideration of this issue.

**Conclusion**

19. We therefore dismiss the appeal.

**Notice of Decision**

The appeal is dismissed.

Judge Sills

Deputy Judge of the Upper Tribunal  
Immigration and Asylum Chamber

15 March 2023