

1404321 (Refugee) [2015] AATA 3663 (6 November 2015)

DECISION RECORD

DIVISION: Migration & Refugee Division
CASE NUMBER: 1404321
COUNTRY OF REFERENCE: Egypt
MEMBER: Rodger Shanahan
DATE: 6 November 2015
PLACE OF DECISION: Sydney
DECISION: The Tribunal affirms the decision not to grant the applicant a Protection visa.

Statement made on 06 November 2015 at 8:38am

Any references appearing in square brackets indicate that information has been omitted from this decision pursuant to section 431 of the *Migration Act 1958* and replaced with generic information which does not allow the identification of an applicant, or their relative or other dependant.

STATEMENT OF DECISION AND REASONS

APPLICATION FOR REVIEW

1. This is an application for review of a decision made by a delegate of the Minister for Immigration to refuse to grant the applicant a Protection visa under s.65 of the *Migration Act 1958* (the Act).
2. The applicant who claims to be a **citizen of Egypt**, applied for the visa [in] July 2013 and the delegate refused to grant the visa [in] February 2014.
3. The applicant appeared before the Tribunal on 8 September 2014 to give evidence and present arguments. The Tribunal hearing was conducted with the assistance of an interpreter in the Arabic and English languages.
4. The applicant was represented in relation to the review by her registered migration agent. The representative attended the Tribunal hearing.

CONSIDERATION OF CLAIMS AND EVIDENCE

Protection Visa Application

5. The applicant is an observant Coptic Christian who was active in her church in Egypt. She claimed she was active in women's groups, particularly in assisting young women who had been fooled into marrying Muslim men and who now wanted to return to the church. Her husband was [an officeholder] in the church.
6. She used to be harassed but her life was not in danger, however with the advent of the government of the extremists they were targeted and was accused of trying to proselytise. Religious extremists had given fatwas about how the Christians should be thrown out of Egypt and that their women and children belonged to the Muslims to do with as they pleased.
7. She began to be harassed in the street and at work. Co-workers told her she should cover up and one, [Mr A], told her that she should convert and marry him. [In] December 2012 [Mr A] followed her to her house; she told him off, ran to her house and told her husband. [In] December 2012 [Mr A] approached her at work and told her that he had prepared everything, that he was going to marry her and convert her to Islam. She yelled at him to leave but a female co-worker later told her that this had been a generous offer.
8. Later another female co-worker sat next to her on the train with other veiled women and told her that she should convert to Islam as she was doing the devil's work at the church. She raced home and told her husband, who told her she should relax, take time off work and ask for a transfer. [In] December she saw her supervisor and asked for a transfer but she was refused and told that she was lucky to have a job.
9. [In] December she asked for time off and on the [following day] she saw a psychiatrist because she felt fearful and depressed and was having nightmares. She was excused from work for two weeks. She returned to work [in] January and the harassment began anew. [Mr A] led the harassment and she lost her temper and cursed him and his religion. He told her that the time would come soon when she realised she should have listened to him.
10. On her way home from work near her home she was attacked by two people who tore her top off and tried to drag her into a car. She started screaming and some of her neighbours saw her and the assailants went away threatening to get her next time. She stayed away from work but

went to church and on her way there was harassed by some women who told her that she should cover up and when she argued with them they began beating her.

11. She and her husband were attacked when people saw religious books and statues in their car when they saw them dropping someone at a meeting. They were attacked, the car was trashed and statues were broken and the books were thrown away. They were accused of trying to convert Muslims. Even while she had an operation [in] January 2013 she was harassed by phone and a co-worker who visited said that she had brought this on herself.
12. Her sister told her she should come to Australia to get away from these problems. She was granted a visa [in] February 2013, but she didn't leave for six weeks because of post-operational complications.

RRT Hearing

13. The applicant was asked if she was still undergoing medical treatment given the last letter she provided was over a year ago. She now rang the psychologist every month if she felt bad but hadn't seen her in person since the last letter. She advised that she was medically fit to attend the hearing.
14. She claimed that if she returned to Egypt she would be abducted and tortured by a group led by a man called [Mr A] because [Mr A] wanted her to marry him and to convert to Islam. She had no other claims.
15. She was a very devout Christian and active in the church and kept an eye on young girls as Muslims would try to abduct them and convert them to Islam. If girls tried to convert back to Christianity they needed to be hidden as the Muslims would consider them apostates. Her husband was also active in the church.
16. The applicant worked at [a workplace]. She had worked there as [occupation] for [number] years. [Mr A] worked at the same office and he worked as [occupation] in a [certain section]. They did their paperwork in her office – he had been there for at least 30 years also.
17. He began talking to her and saying that it was a shame she was a Christian and they needed to convert her. [In] December 2012 [Mr A] followed the applicant home, and told her that he now knew where she lived and they would teach her the Islamic faith. Asked if she had any interaction with him prior to [the date in] December, she claimed they used to chat and his previous statements that she should convert were done as jokes. This had occurred for about a year prior to the incident.
18. She had never taken it seriously and didn't pay any attention to it. She lived two hours from work and needed to take a train and bus. She only noticed [Mr A] as she got to her residence and she saw him behind her. She was asked whether she saw him on the train or bus and she claimed she hadn't. She was asked how she thought he found her if she hadn't seen him on the bus or train. She claimed he may have got there by car but really didn't know.
19. She was asked how a car could follow her for two hours on a train and bus, and she claimed she had not seen him but he could have been on the same bus and train. She was asked how she couldn't have seen him on the same bus and she said it was crowded. She was scared and he said they would convert her and she ran away and told her husband.
20. She stayed home for two days she was so worried but then returned to work. She normally worked with a person called [Ms B] for 30 years but [Ms B] left the office and [Mr A] came into the office. He told her that everything had been arranged and it was decided he would marry

her and she would convert to Islam. She was stunned and told him she was Christian and had adult children. He repeated what he had said before.

21. [Ms B] returned and told her she was making a mistake as he had given her a generous offer and [Mr A]'s people were powerful; they were Muslim Brotherhood. She knew they were because they had beards and dressed as Muslims and talked fanatically about his religion.
22. It was put to her that she had previously said that he joked about converting to Islam with her which didn't appear fanatical. She claimed he had changed recently and wore Islamic dress and grew a beard the same year. The office administrator said nothing and knew nothing about the incident – she didn't raise it with him as she was scared.
23. She left the office and on the way to the train another girl came and told her she should cover and wear a long skirt and listen to what [Mr A] was saying. She was from the same group at the office and the applicant had known her for two or three years. She accused the applicant of being a stumbling block for them to make the place more Islamic.
24. Her husband told her to ask for a transfer but he refused and said she should be grateful for a job. She didn't tell him why, because she was scared. She didn't push it further because she needed the job as her husband wasn't working. She saw a psychologist and he gave her medicine and took two weeks off. She returned to work [in] January 2013 – as soon as she sat down [Mr A] came in and told her that he would act. She lost her temper and yelled at him and cursed Islam aloud. Nobody came to help her.
25. He told her that she had threatened Islam and she would suffer consequences. She left work straight away and as she walked home two men grabbed her, ripped her top and tried to force her into a car. She screamed, a crowd gathered and the two men left but said they would get her another time. She didn't report this to the police because they wouldn't help her or give her justice. They wouldn't accept a Christian rebuking a Muslim man.
26. She got home in a parlous state and her husband told her to go to church to pray. She walked to a different church (one very close to her home). As she walked there she saw two women who rebuked her for not wearing a hijab and accused her of being against Islam. They beat her and pushed her to the ground. She ran home and stayed there. She didn't report this to the police, neither did her husband report any of these incidents because the police wouldn't give them justice.
27. Asked if she had an experience with the police before, she claimed other Christians had been ignored. She had not experienced this herself. She was asked why she never reported an attempted kidnapping and an assault on the same day close to her house. She claimed that at the time the condition in the country were difficult and they were scared. She was even more scared now.
28. She stayed in her home for two weeks. Her husband then convinced her to come with him to the church. They did this and on the way back they gave a family a lift home. They also had some stock from the Christian bookshop in their car. People blocked their car in the middle of the street and accused them of proselytising, and threw their books on the ground and then began a fight with them. People gathered and the assailants disappeared.
29. Asked about injuries, she claimed there was no physical fight, only yelling. It was not reported to the police because they were scared. It was put to her that she had witnesses at these incidents that could have supported them but she claimed people at the church could be in danger if they reported the incident. People could follow them and then target the people from the church. She was asked if priests and parishioners had been targeted in this manner previously. She was advised that she had no documentary evidence so her claim was reliant on

her credibility. There was no country information that supported her claim as she described it and she was asked if she had any that she could provide. She claimed that in 2012 it was impossible to approach the police

30. She had an unrelated surgical procedure and was in hospital for two weeks. In hospital [Mr A] told her that the events wouldn't have happened if she had listened to [Mr A]. Her sister told her to visit her in Australia. She applied for a visitor's visa to leave as soon as she could leave medically.
31. She had a colleague at work who told her that [Mr A] was always asking after the applicant and when she would return. People ask the guard where she lived about when she was due to return.
32. Country information was put to her that indicated that day-to-day life for Copts was not overly affected by sectarian differences and lived normally side-by-side with their Muslim neighbours. Given that, she appeared to have been targeted to an extraordinary extent. There were between four and eight million Copts and out of all those people she appeared to have been targeted to a great degree in a concentrated period, just before she came to Australia even though she had worked with some of them for decades. The Tribunal had a concern that the claim could have been fabricated.
33. She claimed it was true, and was asked why someone with whom she had worked for 30 years would suddenly want her to convert and marry him. She was unlikely to provide him with any children and there was no country information the Tribunal was aware of that indicated middle-aged Coptic women were targeted. She claimed that Muslims wanted to convert numbers of women without regard to their age.
34. She was asked why he wanted to marry her rather than just convert her. She claimed she had to marry him in order to convert. She was also asked why the woman she worked with for 30 years suddenly turned on her. She claimed it was because she was a Muslim too. It was put to her that [Ms B] could have been a regular Muslim and offended by [Mr A] and criticised him or spoken to the office manager; her lack of action appeared strange. She claimed that the way she was treated was weird.
35. Country information was also put to her that indicated Copts could report incidents to police and action would be taken. She had an attempted kidnapping and an assault on the same day, two weeks later they were blocked by a car and their own car attacked in daylight in the middle of the street yet none of these incidents were reported. Her failure to report these incidents given the police could have helped was because the incidents never occurred. She claimed that then the situation was different and it was hard to deal with the police.
36. In Iskanderia (Alexandria) Copts were displaced – it was put to her that she didn't live in Iskanderia and was asked to provide any country information that supported her claim. She was also reminded that the Tribunal needed to use a forward-looking test, and acts such as President Sisi attending Coptic Christmas Mass in Cairo could indicate a more conciliatory attitude towards Copts. She claimed this was a big event, different things happened at a local level. We don't know about these small incidents because they aren't reported. She was asked why DFAT indicated something different to what she claimed.
37. She also claimed her husband had been harassed on his way to church since she had left; he had also been abused by Salafists in the dental clinic he attended. She was asked why [Mr A] didn't harass her husband in the two and a half years since she had left. She claimed that she was the target, but she was told that they had assaulted her husband in their car and smashed icons. She claimed this was designed to target her.

38. She further claimed after a break that she was stressed and had forgotten things. Her husband had to sell their car because the window had been broken and her husband had been harassed at church. It was put to her that the claims had to pertain to her. She claimed that her active profile within the church meant that she could be imprisoned for hiding girls who had converted and recanted. She was asked if she had any country information that supported her claim that people in her alleged position had been imprisoned. She claimed that she didn't but it had happened to her cousin. She was asked why she hadn't raised this at the beginning of the hearing when given the opportunity. She claimed that she had just been waiting to be asked the question.

CONSIDERATION OF CLAIMS AND EVIDENCE

39. The applicant arrived in Australia [in] May 2015 on a visitor's visa and lodged a protection visa application [in] July 2013. The Tribunal sighted her Egyptian passport; I accept that she is a national of Egypt and her application will be assessed as such. The applicant is a [age] year-old married Egyptian woman. She claimed that if he returned to Egypt she would be abducted and tortured because a man named [Mr A] wanted to marry her and convert her to Islam.
40. To the extent that they were relevant I have taken into account the DFAT Country Report – Egypt and the DFAT Thematic Information Report – Egyptian Copts.
41. In considering an applicant's account, undue weight should not be placed on some degree of confusion or omission to conclude that a person is not telling the truth. Nor can significant inconsistencies or embellishments be lightly dismissed. The Tribunal is not required to accept uncritically any and all claims made by an applicant.
42. I note the letter provided by a clinical psychologist dated September 2014 and his diagnosis that she was being treated for post-traumatic stress disorder (PTSD) and associated depression (folios 30 and 31) however I lend it little weight. The psychologist has accepted her claims regarding [Mr A] which I have found to have been fabricated. The letter also asks for a favourable consideration of her application. The applicant stated that she was medically able to attend the hearing and I am satisfied that this was the case. While I acknowledge that a hearing can be stressful, I am not satisfied that inconsistencies were due to poor memory resulting from this stress. Rather the inconsistencies were due to the claim having been fabricated.
43. I found the applicant's evidence regarding her claims to lack credibility. For reasons set out below I did not find the applicant to be a reliable, credible or truthful witness and that he has fabricated his claims.

Attacks and attempted religious conversion

44. I accept that the applicant and her husband are active members of her local Coptic church. I also note that there have been sectarian incidents, the majority of which were in Upper Egypt and that there was a spike of attacks against Coptic churches and properties in August 2013 throughout Egypt including Cairo.
45. I do not accept that the applicant will be targeted as a Copt on return to Egypt or that her husband has been harassed on his way to church and abused by a Salafist in a dental clinic since she had left. The events relating to her husband rely entirely on her oral evidence, which I have found to lack credibility. The claims are also inconsistent with country information that indicates Copts are generally at low risk of personal harm from sectarian violence, particularly in

middle class urban areas¹ and that day-to-day life for most Copts in Egypt is not overtly affected by sectarian differences.²

46. I do not accept that the applicant ever became the target of a man at work called [Mr A] who sought to marry and convert her, and that she was followed and attacked when she refused. To begin with it lacks credibility that a man with whom she had worked for 30 years would suddenly become stridently and fanatically Muslim, be in charge of a group of men and want to marry and convert her.
47. She was unable to say why [Mr A] would want to marry the applicant. She was over child-bearing age so he could not start a family with her, and if his aim was to convert her to Islam there was no need to marry her in order to do this. There is no country information to support a claim that Salafists sought to marry and convert already-married middle-aged Christian women and neither was the applicant able to provide any even though she was asked to do so.
48. The timing of the incidents appears both convenient and to lack credibility. Despite having worked with [Mr A] and her office mate [Ms B] for 30 years and enjoyed a good relationship, even joking with [Mr A], both appeared to turn on her very quickly. [In] December 2012 [Mr A] allegedly followed her home and told her he would marry and convert her, two days later he did the same in the office and she was criticised later that day by a work colleague for not accepting the marriage offer.
49. [In] January 2013 [Mr A] approached her in the office again, she criticised him and Islam publicly and then two hours later near her house two men tried to abduct her. Later the same day she went to a church she didn't normally attend and two Muslim women assaulted her. Two weeks later, on the first time she ventured out of the house, her car was blocked in the middle of the street by men who verbally assaulted her husband and smashed icons in their car and threw away their religious books.
50. It appears extremely coincidental that the number of incidents claimed occurred to the applicant in such a concentrated period of time. Any of these actions, let alone the concentration and variety of them, is also inconsistent with the available country information that indicates 'Most Copts in both urban and rural areas do not experience harassment in their daily lives and live alongside Muslims across all social classes, genders and backgrounds.'³
51. It is also reasonable to expect that the applicants would have taken some steps to report at least some, if not all of the incidents to the police. Whilst I accept that there was a reduced presence of law enforcement following the January 2011 revolution, country information states that subsequently a more substantial police presence in urban areas enabled Copts to live in greater security and that currently the state has a capacity and willingness to provide protection to Copts and generally does so.⁴
52. I also do not accept that the witnesses to the alleged incidents also failed to report the incidents they saw because people could follow them and subsequently target parishioners. It lacks credibility insofar as if assailants wanted to target parishioners they could simply follow them from any church service they wished. It is also not supported by any country information available to the Tribunal, nor was any provided by the applicant when asked.
53. Because I do not accept that a person called [Mr A] sought to marry and convert the applicant, it follows that she never publicly criticised Islam, was never the subject of an attempted abduction

¹ DFAT Thematic Report – Egyptian Copts dated 28 January 2014, p 13

² *Ibid*, p 5.

³ *Ibid*, p 7.

⁴ *Ibid*, p 17.

by two men, told by other office workers to accept [Mr A]'s offer or to cover up, that their car was intercepted in the street and icons smashed and books strewn on the street, or that she was assaulted by two women on her way to church.

54. I have taken into account the letters she has provided in support of her claims but lend them little weight. She has letters from a Coptic priest in [Australia] (folio 63 & 39) however he has no first-hand knowledge of her claims and has simply repeated what she has told him. I have also taken into account the letters she has provided from medical facilities in Cairo however they only refer to her mental health condition and say nothing about events surrounding it and hence I also lend them little weight.

Hiding Christian girls

55. I do not accept that the applicant was involved in hiding Christian girls who had been tricked into marrying Muslim men and who now wanted to return to the church. Available country information indicates that there is a conspiracy theory that has unverified reports of Coptic women being kidnapped and forcibly converted, but in reality what cases do exist involve women voluntarily converting to marry young Muslim men and then seeking to return to the church when the relationship fails. Families sometimes claim they were kidnapped to retain their individual pride.⁵
56. There is no independent country information available to the Tribunal, nor was any presented that indicates there are programs run by Coptic groups to hide girls who leave marriages to Muslim men, or that there is any requirement for such programs. Because I do not accept that there was such a program for the applicant to be involved in, it follows that there is no chance that she would be imprisoned for doing so. She was unable to provide any country information to support her claim that such activities went on and/or that people were imprisoned if found doing it.
57. I place little weight on the letter (folio 39) from the [Australian] parish priest saying that he had spoken to the parish priest of [a certain] church in Cairo who confirmed the threats the applicant faced for serving the girls who recanted. I note that the letter and conversation occurred after she had received a rejection from DIBP, and there is no indication as to why he contacted this church when a previous letter in support of her claims to her Christian faith and service came from [another church] in Cairo (folio 61).
58. Having had regard to all the evidence, and the applicant's claims both singularly and cumulatively, the Tribunal finds that the applicant does not have a well-founded fear of persecution for any Convention reason either now or in the reasonably foreseeable future.

Complementary Protection

59. Because I do not accept that the applicant has been, or will be harassed for being a Copt, that she has been singled out for marriage and conversion to Islam, that she has been assaulted, the victim of an attempted kidnapping, that her car was blocked on the street and its contents broken and strewn on the ground, or that she has been involved in hiding young women who have recanted their conversion to Islam, I am not satisfied that there are any substantial grounds for believing that there is a real risk that the applicants will suffer significant harm.
60. As a consequence I also do not accept that there are substantial grounds for believing that, as a necessary and foreseeable consequence of the applicant being removed from Australia

⁵ Sabra Mahmoud, *Religious differences in a secular age: a minority report*, Princeton University Press, 2015, p 142.

to Egypt, there is a real risk that the applicant will suffer significant harm on the basis of these claims as outlined in the complementary protection criterion in s.36(2)(aa).

CONCLUDING PARAGRAPHS

61. For the reasons given above, the Tribunal **is not** satisfied that the applicant is a person in respect of whom Australia has protection obligations under the Refugees Convention. Therefore the applicant **does not satisfy** the criterion set out in s.36(2)(a).
62. Having concluded that the applicant does not meet the refugee criterion in s.36(2)(a), the Tribunal has considered the alternative criterion in s.36(2)(aa). The Tribunal **is not** satisfied that the applicant is a person in respect of whom Australia has protection obligations under s.36(2)(aa).
63. There is no suggestion that the applicant satisfies s.36(2) on the basis of being a member of the same family unit as a person who satisfies s.36(2)(a) or (aa) and who holds a protection visa. Accordingly, the applicant does not satisfy the criterion in s.36(2).

DECISION

64. The Tribunal affirms the decision not to grant the applicant a Protection visa.

Rodger Shanahan
Member

ATTACHMENT A – RELEVANT LAW

1. The criteria for a protection visa are set out in s.36 of the Act and Part 866 of Schedule 2 to the Migration Regulations 1994 (the Regulations). An applicant for the visa must meet one of the alternative criteria in s.36(2)(a), (aa), (b), or (c). That is, the applicant is either a person in respect of whom Australia has protection obligations under the 'refugee' criterion, or on other 'complementary protection' grounds, or is a member of the same family unit as such a person and that person holds a protection visa.

2. Section 36(2)(a) provides that a criterion for a protection visa is that the applicant for the visa is a non-citizen in Australia in respect of whom the Minister is satisfied Australia has protection obligations under the 1951 Convention Relating to the Status of Refugees as amended by the 1967 Protocol relating to the Status of Refugees (together, the Refugees Convention, or the Convention).

3. If a person is found not to meet the refugee criterion in s.36(2)(a), he or she may nevertheless meet the criteria for the grant of a protection visa if he or she is a non-citizen in Australia in respect of whom the Minister is satisfied Australia has protection obligations because the Minister has substantial grounds for believing that, as a necessary and foreseeable consequence of the applicant being removed from Australia to a receiving country, there is a real risk that he or she will suffer significant harm: s.36(2)(aa) ('the complementary protection criterion').

4. In accordance with Ministerial Direction No.56, made under s.499 of the Act, the Tribunal is required to take account of policy guidelines prepared by the Department of Immigration – PAM3 Refugee and humanitarian - Complementary Protection Guidelines and PAM3 Refugee and humanitarian - Refugee Law Guidelines – to the extent that they are relevant to the decision under consideration.