

REFUGEE STATUS APPEALS AUTHORITY
NEW ZEALAND

AT CHRISTCHURCH

REFUGEE APPEAL NO 76489

REFUGEE APPEAL NO 76490

REFUGEE APPEAL NO 76491

REFUGEE APPEAL NO 76492

REFUGEE APPEAL NO 76493

Before: C M Treadwell (Member)

Counsel for the Appellants: R Davidson

Appearing for the Department of Labour: No Appearance

Dates of Hearing: 3 & 4 May 2010

Date of Decision: 21 June 2010

DECISION

INTRODUCTION

[1] These are appeals against decisions of a refugee status officer of the Refugee Status Branch of Immigration New Zealand, declining the grant of refugee status to each of the appellants, nationals of Egypt.

[2] This is the second time that the appellants have sought refugee status in New Zealand. On 30 June 2009, the Authority (differently constituted) delivered a consolidated decision on their first appeals – see *Refugee Appeals Nos 76255, 76313, 76314, 76315 and 76316* (30 June 2009). While accepting that they are Coptic Christians, it rejected as not credible the joint claim that they were at risk of serious harm at the hands of a fundamentalist Islamic group in Egypt. It found that

they were not at risk of serious harm as Coptic Christians and that any compulsory military service by the sons did not amount to being persecuted.

[3] The crux of this appeal is whether there have been any events subsequent to the first appeal such as to meet the jurisdiction to entertain these appeals.

[4] The appellants are a family comprising the father, the mother and their three adult sons. Because their claims arise from the same set of facts, the appellants were interviewed at one hearing and the evidence of each is taken as applying to the appeals of all.

[5] On 27 April 2010, Mr Davidson, counsel for the appellants, wrote to the Authority seeking an adjournment of the hearing on 3 May 2010 because of his inability to attend. That application was declined but the Authority offered, and he accepted, a copy of the recording of the hearing and the opportunity to make submissions after the hearing. A recording was duly provided to him by the Authority and his submissions were received on 15 June 2010.

JURISDICTION OF THE AUTHORITY TO HEAR THE APPEALS

[6] Second or subsequent refugee claims (including appeals to the Authority) are subject to jurisdictional limitations. Section 129O(1) of the Immigration Act 1987 ("the Act") provides:

A person whose claim or subsequent claim has been declined by a Refugee Status officer, or whose subsequent claim has been refused to be considered by an officer on the grounds that the circumstances in the claimant's home country have not changed to such an extent that the subsequent claim is based on significantly different grounds to a previous claim, may appeal to the Refugee Status Appeals Authority against the officer's decision.

[7] It follows that it is necessary to consider the appellants' original claims and their further claims, as presented on the second appeals, with a view to determining:

- (a) whether, in terms of s129O(1) of the Act, the Authority has jurisdiction to hear the second appeals; and, if so,
- (b) whether each of the appellants is a refugee within the meaning of Article 1A(2) of the Refugee Convention.

[8] Jurisdiction to hear and determine subsequent refugee claims under s129O(1) of the Act involves a comparison of the claims as asserted by the refugee claimant. In the absence of significant difference in the grounds upon which the claims are based, there is no jurisdiction to consider the subsequent claim. See *Refugee Appeal No 75139* (18 November 2004).

[9] Where jurisdiction is established, the merits of the subsequent claim will be heard by the Authority.

THE APPELLANTS' FIRST CLAIMS

[10] The following is a summary of the first claims, as presented to the first appeal panel. It is set out more fully in *Refugee Appeals Nos 76255, 76313, 76314, 76315 and 76316* (30 June 2009).

[11] The appellants are Coptic Christians from Cairo. They were financially secure and lived in good middle-class accommodation. The mother worked as an accountant in the public sector. The three sons attended a private school. The father worked for a bank outside Egypt, before taking over his father's business. Most latterly, he bought a poultry farm in the mid-1990s, some 50kms from Cairo.

[12] One night, while staying over at the farm, the father woke and saw men burying boxes in a hole at a nearby cemetery. Realising that discretion was called for, he did not tell anyone what he had seen.

[13] In mid-2001, two Muslim farm workers from the village learned that the family was Christian. As a result, a delegation from the village arrived and tried to persuade the family to convert to Islam. They declined to do so.

[14] Some days later, one of the Muslim workers called the father by telephone and told him that all of the poultry and machinery had been stolen from the farm. The father and the eldest son went to the farm and reported the incident to the local police who arrested the two Muslim workers.

[15] The father and the eldest son were attacked at the farm that night by relatives of the arrested men, wielding sticks and knives. The eldest son was cut on his arm. A complaint was lodged with the police. A week later, the police urged the father to withdraw the complaint because the workers belonged to a dangerous fundamentalist Islamic group. Angry and frustrated, the father told the

police of the boxes buried at the cemetery. The police found that the boxes contained weapons and ammunition and forced the father to sign an undertaking that he would never reveal this to anyone.

[16] During the months that followed, the family became the target of threats and attacks in Cairo. The wife and youngest son were the victims of attempted assaults (the youngest son was cut on his face) and the mother was the subject of an attempted abduction in the street. Once, a mob armed with sticks tried unsuccessfully to gain access to the family's apartment building in Cairo.

[17] The family began staying with relatives and friends elsewhere in Cairo and at other places. On each occasion, however, they were traced and the threats resumed. On one occasion, the home in which they were living was fired upon.

[18] The father decided that the family should leave Egypt and obtained visas for New Zealand. They left Cairo in February 2002.

[19] Before leaving Egypt, the mother obtained the name of Father Sourial, a Coptic priest in New Zealand, and contacted him on arrival. After discussing their options with members of the Coptic community, the family decided to try to remain in New Zealand through orthodox immigration channels. They obtained temporary permits and, for some years, tried unsuccessfully to obtain residence through various business ventures. They were cheated by an Egyptian man, who stole \$70,000 of their money and fled to Egypt, leaving them, after several years, with residence applications which could not succeed.

[20] In December 2007, the eldest son (now adult and living independently) lodged an application for refugee status on the grounds of his objection to performing military service in Egypt.

[21] By early May 2008, the other appellants had been declined further permits and were preparing to return to Egypt. They assumed that the risk in 2002 had dissipated. The mother telephoned her family in Cairo, however, and learned that the Islamist group continued to monitor the family apartment. The group had recently posted flyers in the streets, offering a significant payment for information as to the whereabouts of the father and the eldest son. Following this news, the other appellants also lodged applications for refugee status. The eldest son then amended his claim to mirror that of the rest of the family.

Determination of first appeal

[22] The panel of the Authority hearing the first appeal found the appellants' claims not to be credible. In brief, it found:

- (a) The eldest son's claim had initially been based on his objection to military service. He did not mention difficulties with an Islamist group, the theft of poultry and machinery from the farm, the arrest of Islamists on a complaint by his father, the attack on his father and him in the night, the injury to his arm during that attack, the attacks on his mother and youngest brother, the attempted attack on the family apartment, or any further harassment as they moved around from place to place.
- (b) Even to the Refugee Status Branch, the eldest son spoke only in general terms about Muslims. He did refer briefly to Muslims at the farm harassing the children and the theft of chickens, which the police would not investigate because the culprits were "Muslim brothers", but he did not mention any attacks on any of the family by Muslims or their pursuit across Egypt. Indeed, he told the refugee status officer that his family came to New Zealand to give him and his brothers a better life.
- (c) A further discrepancy in the evidence of the eldest son arose from two scars on his body. To the Refugee Status Branch, he stated that both had been inflicted during a schoolboy fight with Muslim friends. By the time of his first appeal hearing, one of the scars had become the one inflicted during the attack on his father and him at the farmhouse.
- (d) The information that it was still dangerous to return and that Islamists were posting flyers in Cairo was received by the mother in early May 2008. It was repeated in a fax to Father Sourial on 13 May 2008, including photographs of the flyers. There was an immediate family meeting in mid-May 2008. Surprisingly, this important information was not passed on to the Refugee Status Branch, notwithstanding that the eldest son's claim was still being considered and that he did provide other information with which it could have been included.

- (e) It was implausible that a localised dispute in a rural area should suddenly re-emerge after six years and the supposed renewed activity of Islamists in Cairo in such proximity to the appellants' departure from New Zealand was suspiciously fortuitous.
- (f) The father's claim to have seen the burial of munitions in the cemetery lacked credibility, the mother being unaware of this aspect of the claim and the father's explanation (that he had such concern that he could not disclose it to his family) conflicting with his willingness for his wife and children to accompany him to the farm. The Authority also rejected his claim that the police made him sign an undertaking as contrived.
- (g) As to the fax supposedly sent to Father Sourial on 13 May 2008 it was found to be self-serving and written for the purpose of being produced at the hearing. Father Sourial's evidence was found to have been heavily influenced by the appellants and was unreliable.
- (h) The documents and photographs produced were each assessed but the first appeal panel found that none could be afforded any weight.

[23] The first appeal panel found that the core events in the appellant's claims to have a well-founded fear of being persecuted in Egypt were untrue.

[24] The first appeal panel accepted only that the family are nationals of Egypt, that they are Coptic Christians who lived in Cairo and were a financially secure family, that they have extended family living in Egypt, and may have an apartment to which they might return. It also accepted that they may have experienced a level of discrimination in Egypt, as Christians, but, after reviewing the relevant country information, found that any discrimination experienced by the family on their return would not amount to serious harm. It accepted that the sons would be eligible for compulsory military service but, on reviewing the country information, found that it also did not amount to serious harm.

THE APPELLANTS' SECOND CLAIMS

[25] The appellant's second claims were lodged with the Refugee Status Branch on 7 September 2009. They are primarily premised upon the assertion that

generalised violence and discrimination against Coptic Christians in Egypt have escalated since their first claims. Further, the increase is to such an extent, they say, that their second claims are brought on significantly different grounds.

Worsening of conditions for Coptic Christians

[26] None of the appellants has been in Egypt since coming to New Zealand and so they have no personal knowledge of current conditions there. They say that they have spoken with family members by telephone, from time to time, and are told that there is discrimination towards, and violence against, Coptic Christians and they should not return.

[27] As to the claim that violence and discrimination against Coptic Christians in Egypt have deteriorated since their first claims, the appellants submit a CD-Rom, containing links to two Internet video clips (at <http://freecopts.net>) of Canadian officials speaking at a Coptic Christian gathering, condemning an attack on Coptic Christians in Egypt on Christmas Eve 2009. The appellants also submit a DVD of video footage taken by an unnamed amateur photographer, apparently in Egypt. It shows a night scene of rioters and riot police, each side throwing stones at the other. The nature and date of the conflict are unstated.

[28] The appellants also rely upon a substantial quantity of country information which they submitted to the Refugee Status Branch. It is discussed in detail hereafter.

Further evidence in relation to first claim

[29] The appellants also say that they have received further evidence from Egypt to demonstrate that their first claims were, in fact, truthful. Such evidence includes:

- (a) four Court summonses in the name of the father;
- (b) five police reports (entitled "Probe Minutes");
- (c) a letter dated 5 October 2009 from a lawyer;
- (d) an undated letter from a doctor at a hospital;
- (e) a copy of the land deeds to the appellants' farm;

- (f) an undated 'death threat' letter from the Islamist group, received by the father in New Zealand on 17 April 2010, which states (as translated):

When you receive this letter and you read it you will be then sure that we know where you live in New Zealand, you and your whole family, and we will finish you all with God's help, as soon as possible hopefully. There is no God but God. Mohammed in the prophet of God.

[30] Finally on the question of documents relating to the first claim, the eldest son advised the second appeal panel that he hoped to be able to provide a video recording of an interview of him by the New Zealand Police in about 2004. The purpose of the interview at that time is unimportant and does not reflect poorly on the eldest son. The relevance of the recording is that he says that he told the police of his family's reasons for coming to New Zealand – in particular, the difficulties at the farm. The importance, he says, is that it predates his first claim which, it will be recalled, had been brought on 'military service' grounds, giving rise to credibility concerns by the first appeal panel when he later expanded it to include a fear of the Islamist group, to mirror the claims of his family.

[31] The recording has not been submitted to the Authority. It is assumed the eldest son has not yet received it from the Police, or it is no longer available. In the circumstances, it is impossible to know what was said. It is accepted that he was interviewed by the Police (he submitted a copy of an Official Information Act request) and it is unlikely that he would have raised the point with the Authority unless he had had discussions of the nature he describes with the Police. What must be borne in mind, however, is that the first appeal panel did not disbelieve that the family may have had some difficulties with Muslims at the farm. At [76], it acknowledged that:

The fact that [the eldest son] informed the RSB about the existence of a family farm [and] a problem with a farm worker associated with an Islamic group may indicate that there is some truth to such matters.

[32] It is accepted that the interview might corroborate that view, but it was, in any event, a view which the first appeal panel was prepared to accept and, on the present appeal, the Authority is able to have regard to it, even without the presentation of the recording.

[33] It is now necessary to turn to the question whether the Authority has jurisdiction to consider the second claim.

DETERMINATION ON JURISDICTION

[34] It will be recalled that the Authority has jurisdiction to consider a second claim only where it is established that “circumstances in the claimant’s home country have changed to such an extent that the subsequent claim is based on significantly different grounds to a previous claim”. This requires the Authority to compare the claims. For this purpose, the credibility of the claims is not relevant (it is, of course, relevant to the subsequent consideration of the substantive claim, should jurisdiction be established).

[35] In written submissions dated 12 June 2010, Mr Davidson identifies the “changed circumstances” asserted by the appellants as increased violence and discrimination against Coptic Christians, which the Egyptian government is unable or unwilling to provide adequate and/or meaningful protection against. See para 17 of his submissions. That accords with the appellants’ own summary of the second claim. Mr Davidson also advises, at para 18, that:

“The appellants do... accept that the... five police certificates, entitled “Probe Minutes”, the four summonses and a copy of the farm title do relate to the previous claim and further that they have no bearing with respect to the current claim under consideration.”

[36] No mention was made of the recent anonymous ‘death threat’ letter but that, and the authenticity of the other documents, is addressed later.

Increased violence and discrimination against Coptic Christians

[37] A quantity of country information was provided by counsel to the Refugee Status Branch, in support of this contention – see pp 674-680 and 694-749 of the father’s file. The Authority has also received the CD-Rom and DVD referred to at [29] above.

[38] In order to establish whether the country information discloses ‘changed circumstances’ since 30 June 2009 (the date of determination of the first claims), it is necessary to consider the levels of violence and discrimination against Coptic Christians in Egypt before and after that date.

[39] The country information as to generalised violence and discrimination against Copts *since* 30 June 2009 paints a picture of sporadic incidents of varying intensity, including November 2009 mob riots against Christians in Farshoot town, some 500 kilometres from Cairo, which was sparked by allegations that a Christian

man had raped a 12 year old Muslim girl. A further incident occurred in the town of Nag Hammadi (also 500 kilometres from Cairo), when three Muslims fired randomly into a crowd of Copts gathered on Christmas Eve, killing six and wounding a number (it was this incident about which Canadian officials spoke sympathetically to a Coptic gathering in Canada). Other incidents have included a man detained for two days for “praying without a licence” and the killing of a Coptic man on 16 September 2009 in a village in north Egypt, by a Muslim, Osama Araban, who also attacked several other Copts.

[40] These incidents are not to be trivialised, and the Authority accepts that there is a continuing issue in Egypt, of isolated and sporadic acts of violence by Muslims against the minority (some six to ten million) Copts. What it must be compared with, however, are the levels of such generalised violence and discrimination *before* the first claims (that is to say, before 30 June 2009).

[41] The reality is that such levels of generalised violence and discrimination existed before the first claims and were taken into account by the Authority. The appellants expressly raised the issue of generalised violence and discrimination against Copts as part of their first claims. In addressing it, the Authority held:

[123] The appellants referred the Authority to country information from various sources. This includes the United States Department of State Country Reports on Human Rights Practice for 2008: Egypt (February 25 2009) (the DOS Report), according to which Egypt has a population of approximately 80 million people, of whom somewhere between six and 10 million are Christian. Most of those are Coptic Christians.

[124] According to the DOS report, the government’s respect for human rights remains poor. It states that respect for freedom of religion had declined during the year and that civil liberties were restricted. However, it also states that members of non-Muslim religious minorities officially recognised by the government (including Christians), “generally worshipped without harassment and maintained links with coreligionists in other countries” (p16).

[125] Counsel also cited the then most recent United Kingdom Foreign and Commonwealth Office report (Home Office Report), 15 August 2008, which refers to a “strong emphasis on national unity and tolerance between the Coptic and Muslim communities”.

[126] Other country information refers to attacks on Coptic Christians by members of extremist Muslim groups. The United States Commission on International Freedom Annual Report 2008: Egypt refers to an “upsurge” of attacks targeting Coptic Christians over the past two or three years (p223). However, on the basis of information he receives via regular official church publications from Egypt and information generally available on the internet, Father Sourial said that while such incidents did take place they were rare; perhaps half a dozen a year.

[42] Further confirmation of the fact that sporadic violence and discrimination against Copts existed before 30 June 2009, at much the same level of intensity, is to be found in the country information provided by counsel which includes:

- (a) An October/November 1997 *Washington Report* article "Egypt's Coptic Christians: Caught Between Renewal and Persecution", which noted that over 200 Copts had been killed in sectarian violence in the preceding two years and that the Church "bears the brunt of significant government discrimination". (file, p749)
- (b) A 20 May 2009 *Voice of the Martyrs* (www.persecution.net) article "Christian Man Kidnapped by Muslims", which reported the 6 May 2009 kidnapping and disappearance from his home in Alexandria of a Copt who had formed a relationship with a Muslim woman. (file, p715)
- (c) A 1 July 2009 *Assyrian International News Agency* article "The Persecution of Egypt's Coptic Christians Continues", noting mob attacks against Christians in the village of Ezbet Boushra-East on 21 June 2009 and commenting that it was "the latest incident in a long series which goes back to the seventies." (file, p747)

[43] The United States Department of State's *Country Reports on Human Rights Practice for 2008: Egypt* (February 25 2009), put by the appellants to the first appeal panel, also provided insight into the degree of generalised violence and discrimination against Copts prior to 30 June 2009:

The government did not carry out forced conversions; however, there were again reports of forced conversions of Coptic women and girls to Islam by Muslim men. Reports of such cases are disputed and often include inflammatory allegations and categorical denials of kidnapping and rape. Observers, including human rights groups, find it difficult to determine whether compulsion was used, as most cases involve a female Copt who converts to Islam when she marries a Muslim male....

Societal religious discrimination and sectarian tension continued during the year.

For example, on November 24, hundreds of Muslims attacked a recently opened, unlicensed Coptic church in the Ain Shams area of Cairo, fighting with Coptic worshippers and police attempting to restore order.

Authorities continued to detain two Copts accused of killing a Muslim who died at the time of the attack on the Abu Fana Monastery. There were no charges filed against the assailants who assaulted the monastery and abused the monks who were abducted.

[44] To illustrate the long-standing nature of sporadic outbreaks of generalised violence and discrimination against Copts, it is also helpful to consider older reports, such as Amnesty International's September 1998 report, "Egypt: Human Rights Abuses by Armed Groups" (at p199 of the file), which, even then, described *Al-Gama'a al-Islamiya* as having:

... targeted Coptic Christians.... The group has been responsible for grave human rights abuses... in recent years. Scores of civilians, including Coptic Christians and foreign tourists, were deliberately killed in situations where the victims, unarmed, were apparently targeted because of their actual or supposed religious beliefs or country of origin."

[45] In summary, the evidence does not establish that there has been an increase in generalised violence and discrimination against Coptic Christians in Egypt, such that circumstances there have changed to such an extent that the appellants' subsequent claims are based on significantly different grounds to their previous claims.

[46] It follows from this finding that the second claims do not cross the jurisdictional threshold.

[47] Although that finding is dispositive of the appeals, it is appropriate to also comment briefly on the authenticity of the documentary evidence put forward in an attempt to show that the first appeals were wrongly decided and that there continues to be adverse interest in the appellants today, as evidenced by the anonymous 'death threat' letter.

CREDIBILITY

[48] Many of the documents put forward by the appellants on the second appeals are contrived.

[49] In an attempt to establish that the findings of the Authority on the first appeals was incorrect, the appellants have submitted, *inter alia*, the five police reports ("Probe Minutes") and four summonses. For the reasons which follow, the authenticity of those documents is rejected.

"Probe Minutes"

[50] The five police reports can be summarised thus:

A. 8 August 2001 – Banha Police Station

Investigation by Police Colonel Mohammed Al Sharabasy into complaint by the father that the poultry had been stolen from his farm.

B. 9 August 2001 – Banha Police Station

Investigation by Major Ahmed Gabr into complaint that the father and the eldest son had been attacked at night at the farm, by relatives of the detained farm workers.

C. 5 October 2001 – Rawd el Farag Police Station

Investigation by Police Colonel Hasan Allam into complaint that the father's car had been shot at when parked by the side of the road at his brother's house.

D. 5 November 2007 – Banha Police Station

Investigation by Police Colonel Mohammed Al Sadany into complaint that the father's brother-in-law was obstructed by villagers when he tried to sell the family farm.

E. 13 July 2008 – Ein Shams Police Station

Investigation by Police Officer Moneer Abdel Wahab into complaint that flyers had been posted on the walls near the family's apartment, seeking their whereabouts.

[51] It can be seen that the five reports span an eight year period and emanate from three different police stations. Five different authors are named. Given these variations, it is surprising that the language and content is remarkably similar. As an example, four of the documents begin:

With my acknowledgement, I Police Colonel Mohammed Al Sharasy (chief of Investigation Police), the following report has been initiated at 5pm on the 8th of August 2001, when the citizen [named] came into the police station bureau and reported verbally about ...

With my acknowledgement, I Police Colonel Hasan Allam (chief of Inquest Department), the following report has been initiated at 3pm on the 5th of October 2001, when the citizen [named] came into the police station bureau and reported verbally about ...

With my acknowledgement, I Police Officer Moneer Abdul Wahab, the following report has been initiated at 3pm on the 13th of July 2008 when the citizen [named] came into the police station bureau and reported verbally about ...

With my acknowledgement, I Police Colonel Mohammed Al Sadany, the following report has been initiated at 5pm on the 5th of November 2007, when the citizen [named] came accompanied by his lawyer [named] and reported verbally about ...

[52] That four of the five reports should begin in such identical fashion strongly suggests that they were penned by the same hand. The interposition of a translator is not overlooked, but does not explain the extraordinary similarity in content by four authors in different places, over a period of many years.

[53] The original reports are in Arabic. Each page of each report bears a small government seal of the kind produced by a rubber hand-stamp. Because some reports are more than one page in length, there is a total of eight such stamps. All of them, on close examination, have been produced by way of a computer scan, not a rubber stamp. Seven of the eight (all those on the three 2001 documents and the 2008 document) are identical as to the inking pattern and as to the myriad of small flaws inherent in a rubber hand stamp. The Authority has no doubt that they are all scans of the same impression of a rubber hand stamp.

[54] The appellants attempted to explain this suspicious feature by claiming that Egyptian police stations produce such reports by copying them by hand out of the bound volume in which the original was created and that, to do so, they use blank forms which have been pre-printed with a scanned version of the seal in a random place, and at a random orientation. A police station would have, it is asserted, significant stocks of such paper, pre-prepared for the eventuality that persons would want copies of reports.

[55] The notion that police stations so technologically advanced as to scan rubber stamps onto blank forms in anticipation of use, would nevertheless be continuing to laboriously copy long reports by hand, is absurd. Further, it does not explain how the same scanned impression of a seal would come to be used by different police stations. Nor does it explain why such a complex system would be devised, instead of simply using a hand-stamp. Nor does it explain why each scanned seal is rotated by a different degree on each page.

Summonses

[56] The four summonses are

1. Ain Shams Court – 11 April 2008

Requiring the father to appear in Court on 12 April 2008 for Case 675/2008.

2. Ain Shams Court – 11 December 2008

Requiring the father to appear in Court on 12 December 2008 for Case 675/2008.

3. El Daher Court – 18 April 2009

Requiring the father to appear in Court on 20 April 2009 for Case 675/2008.

4. El Daher Court – 4 June 2009

Requiring the father to appear in Court on 4 June 2009 for Case 675/2008.

[57] The summonses are small, identical, pre-printed forms which have been filled in. Suspiciously, in spite of the fact that they appear to emanate from two different courts over a period of 14 months, the four forms bear identical traces of photocopying. There is, for example, an identical, random pattern of toner spots on each document, such that there can be no doubt that all four have been copied from a master document, or that three of them were copied from the fourth.

[58] While it is possible that the Egyptian court system photocopies such documents for expediency, it is surprising that two different courts would have forms from the same stock and that such stock would still be in use over a period of 14 months.

[59] Asked by the Authority to explain the nature of “Case 675/2008”, the father could only state that the Islamist group wanted to get him into trouble with the authorities. When pressed for information, he could not say what the charge or accusation against him was.

Threatening letter received in New Zealand

[60] This letter requires brief mention. It bears no cancellation date by the Egyptian post office (the stamps are cancelled by pen-stroke), but enquiries with New Zealand Post confirm the father’s evidence that it was received and signed for by the father on 17 April 2010. The reason such enquiry could be made is that the letter was sent by registered post.

[61] Why an Islamist group in Egypt, wanting to frighten the father by sending him a threatening letter, would bother to pay the cost of registered post, for no apparent reason, is difficult to comprehend. If however, the letter was sent by a person keen to ensure it arrived and anxious that its passage through the post would be verifiable, then registration might have some point. Such a person would include a relative or friend of the appellants, complicit in manufacturing a letter to support their refugee claims.

[62] It is also suspicious, of course, that such a letter should be sent eight years after the family left Egypt – the more so that it should arrive shortly before the second appeal hearing.

Letter from lawyer

[63] The appellants also produce a letter dated 5 October 2009, said to be from a lawyer in Cairo. The lawyer states that, at the father's request, he went to the courts to enquire into the issue of the four summonses. He says that the summonses are the product of complaints by aggrieved villagers, who fear that the father intends to sell the farm so that a church can be built there.

[64] The letter from the lawyer is clearly self-serving. It repeatedly exhorts the reader that the appellants should not be returned to Egypt. As examples:

It is clear that the reasons behind it is to stir up the police to find [the father] and his family so that they might kill and destroy them....

It is clear from the huge number of police reports that these people are trying with various ways to set up snare for [the father] to appear so that they can get rid of them completely by killing them....

The District Attorneys also advised to avoid any possibility where the villagers or anyone related to them to reach [the father] or any of his family members. [The father] and his family are wanted from there terroristic Islamic groups for a physical liquidation to get rid of them completely.

... I also advise [the father] and his family not to appear anywhere in Egypt. The risk is too big on their lives because these Islamic terroristic groups... crave to kill them.

[65] The veracity of the letter must also be viewed in light of the foregoing concerns as to the authenticity of the summonses about which the lawyer purports to report.

[66] Given these concerns and the fact that the lawyer is not present to be questioned, no weight is given to the letter.

Conclusion on credibility of documents

[67] Viewed cumulatively, none of the aforementioned documents are found to be genuine. Their authenticity is rejected.

[68] For the sake of completeness, even if the appellants had established jurisdiction (which they have not) this, combined with the rejection of their credibility on the first claims (the reasons for which the Authority finds cogent and persuasive and determines to rely upon) would lead it to conclude that nothing in the second claims gives rise to a well-founded fear of any of the appellants being persecuted for any of the reasons set out in the Refugee Convention.

CONCLUSION

[69] The Authority finds that it has no jurisdiction to entertain the appellants' second appeals. Since the determination of the first refugee claims circumstances in the appellants' home country have not changed to such an extent that the second claims are based on significantly different grounds to the first claims.

[70] In view of the finding of absence of jurisdiction, the appeals are dismissed.

"C M Treadwell"

C M Treadwell
Member