

HONG KONG / JUDGMENT

Re Hammad Ali

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CACV 495/2026, [2026] HKCA 1200 On appeal from

[2026] HKCFI 1365 IN THE HIGH COURT OF THE HONG KONG SPECIAL ADMINISTRATIVE
REGION COURT OF APPEAL CIVIL APPEAL NO 495 OF 2026 (ON APPEAL FROM HCAL
1449/2025)

RE: HAMMAD ALI Applicant

Before: Hon Barma JA and Mimmie Chan J in Court Date of Judgment: 16 July 2026

J U D G M E N T

Hon Barma JA (giving the Judgment of the Court): 1. This is an appeal against the decision of Deputy High Court Judge KW Lung (“the Judge”) given on 6 May 2026 [1] (“the Leave Decision”) refusing to grant leave for the applicant to apply for judicial review. The intended judicial review was against the decision of the Torture Claims Appeal Board/adjudicator of the Non-Refoulement Claims Petition Office (“the Board”) dated 6 June 2025 (“the Board’s Decision”) dismissing the applicant’s appeal against the decision of the Director of Immigration dated 14 March 2025 rejecting the applicant’s non-refoulement claim. 2. The applicant’s background, the basis of his claim and the Board’s reasons in reaching the Board’s Decision have been set out therein [2] as well as by the Judge in the Leave Decision at [4]-[5] and [8]-[10], which will not be repeated. 3. The applicant did not request for a hearing of the leave application. After considering the documents filed by the applicant, the Judge dismissed the application for the reasons stated at [11]-[18] of the Leave Decision. Appeal to this court 4. By a Notice of Appeal dated 14 May 2026, the applicant stated that he disagreed with the Leave Decision and that it is “very unfair”. He emphasised that he would not be “safe” if refouled. 5. In breach of the directions made by the Registrar of Civil Appeals, the applicant failed to lodge skeleton submissions with the court, despite being warned that the hearing date would be vacated and the appeal dealt with on paper in the event of non-compliance. 6. The requirement for lodging of skeleton submissions in an appeal is prescribed by Practice Direction 4.1. The compliance with such requirement on the part of an applicant is important for the proper and effective functioning of our appeal process. The skeleton

submissions are important for the preparation of an appeal, both for the judges and the litigants. The non-compliance with such requirement substantially impairs the exercise of case management power of the presiding judge in an appeal, including the effective management of the oral hearing. Nowadays, this court no longer permits unfocused oral presentation of material at an oral hearing. In view of the heavy demand on the court's time due to the large volume of appeals, in recent times this court has taken a firm stance on the requirement to lodge skeleton submissions. Non-compliance with such requirement is treated as the abandonment of the right to an oral hearing. 7. The hearing date on 2 July 2026 was therefore vacated and the applicant was debarred from lodging any written submissions. We have dealt with the appeal on paper on the basis of the materials already filed with the court. Discussion 8. As this court has often stated, an appeal to the Court of Appeal is not a fresh application for judicial review. It is necessary to identify some error on the part of the judge that would justify this court in intervening: see *Nupur Mst v Director of Immigration*

[2018] HKCA 524 at [14]. The court will not intervene by way of judicial review unless there are errors of law or procedural unfairness or irrationality in the decision of the Board. An appeal is not the occasion for regurgitating arguments advanced and rejected by the judge or for running arguments which could and should have been raised but were not raised before the judge. In the determination of an appeal, the Court of Appeal focuses on the decision of the judge and the court will only reverse that decision if an appellant could demonstrate that the judge made errors of law or failed to take account of relevant matters already placed before the court or was otherwise plainly wrong. 9. The applicant has wholly failed to identify any error on the part of the Judge and thus failed to raise any viable ground of appeal. 10. In the present case, the Board found that the applicant's claim and his alleged fear of harm at the hands of a man named Faisal was unfounded on the evidence on all applicable grounds for non-refoulement. In particular, the Board found that Faisal had no intention to kill the applicant, nor was he as influential or powerful as the applicant portrayed. These were factual findings open to the Board on the evidence, and were sufficiently canvassed and considered by the Judge in the Leave Decision at [13]-[18]. We see no basis to interfere. 11. The applicant has failed to demonstrate how the Board had acted unlawfully or procedurally unfairly in reaching its Decision, or how such Decision could be said to be *Wednesbury* unreasonable. 12. As we have noted, the applicant advanced no viable grounds of appeal against the Judge's decision. There is therefore no merit in the appeal and we dismiss the appeal accordingly. (Aarif Barma) (Mimmie Chan) Justice of Appeal Judge of the Court of First Instance The applicant acting in person [1]

[2026] HKCFI 1365 [2] https://legalref.judiciary.hk/doc/judg/html/vetted/other/en/2025/HCAL001449_2025_files/the_Board's_Decision.pdf

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