

HONG KONG / JUDGMENT

Re ISLAM MOHHAMED SERAZUL

Source: legalref.judiciary.hk · Research copy typeset by Esheria. Not court-issued or certified.

CACV 707/2026, [2026] HKCA 1581 On appeal from

[2026] HKCFI 3516 IN THE HIGH COURT OF THE HONG KONG SPECIAL ADMINISTRATIVE
REGION COURT OF APPEAL CIVIL APPEAL NO 707 OF 2026 (ON APPEAL FROM HCAL
1460/2022)

RE: ISLAM MOHHAMED SERAZUL Applicant

Before: Hon Barma JA and Mimmie Chan J in Court Date of Judgment: 3 September 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 (Non-refoulement Claims) Isaac Chan (“the Judge”) given on 22 June 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 30 November 2022 (“the Board’s Decision”) dismissing the applicant’s appeal against the decision of the Director of Immigration dated 29 June 2021 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 at [8]-[10] of the Leave Decision, which will not be repeated. 3. After considering the documents filed by the applicant as well as the oral submissions he made at the hearing of the leave application, the Judge dismissed the application for the reasons stated at [5]-[11] of the Leave Decision. Appeal to this court 4. By a Notice of Appeal dated 29 June 2026, the applicant stated that he disagreed with the Leave Decision and that the Judge did not scrutinise his claim properly. He emphasised that the problems in his country remain “severe” and that his enemies would kill him upon his return. 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 18 August 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 failed to identify any error on the part of the Judge and thus failed to raise any viable ground of appeal. The points advanced by the applicant were bare assertions unsupported by particulars or evidence. 10. In the present case, the Board found that the applicant's brother, Jamal, had at most threatened the applicant on one or two occasions, but had never physically attacked the applicant. There was no evidence in support of the allegation that Jamal would cause serious harm to, or kill, the applicant upon his return to Bangladesh. In any event, the Board was of the view that adequate state protection was available to the applicant in order to minimise the risk of harm, if any. 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 [5]-[11]. 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) Justice of Appeal (Mimmie Chan) Judge of the Court of First Instance The applicant acting in person [1]

[2026] HKCFI 3516 [2] https://legalref.judiciary.hk/doc/judg/html/vetted/other/en/2022/HCAL001460_2022_files/the_Board's_Decision.pdf

Source & reproduction note

Judgment wording, source notices and original paragraph numbers are retained. Esheria supplies the layout and this PDF's page numbers; these are not the source pagination. This is a research copy, not an official or certified court document. Check quotations, citations and publication restrictions against the original source before relying on it.

ORIGINAL SOURCE https://legalref.judiciary.hk/lrs/common/ju/ju_frame.jsp?DIS=184654

CASE PAGE <https://chat.esheria.ai/case-law/hong-kong/re-islam-mohhamed-serazul-2026>

Prepared on 28 October 2026 · Esheria