

HONG KONG / JUDGMENT

Re Okoye Chinedu Paul

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CACV 660/2026, [2026] HKCA 1424 On appeal from

[2026] HKCFI 3232 IN THE HIGH COURT OF THE HONG KONG SPECIAL ADMINISTRATIVE REGION COURT OF APPEAL CIVIL APPEAL NO 660 OF 2026 (ON APPEAL FROM HCAL 615/2022)

RE: OKOYE CHINEDU PAUL Applicant

Before: Hon Barma JA and Leung J in Court Date of Hearing: 6 August 2026 Date of Judgment: 27 August 2026

J U D G M E N T

Hon Leung J (giving the Judgment of the Court): 1. This is an appeal against the decision of Deputy High Court Judge To (“the Judge”) given on 5 June 2026 [1] (“the Leave Decision”) refusing to grant leave for the applicant to apply for judicial review [2]. 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 1 March 2022 (“the Board’s Decision”) whereby the applicant’s appeal against the decision of the Director of Immigration dated 17 June 2020 rejecting the applicant’s non-refoulement claim was dismissed. 2. The applicant is a Nigerian national. His background, basis of claim and the Board’s reasons have been set out in the Board’s Decision [3] as well as the Leave Decision at [7]-[11]. They will not be repeated. 3. The applicant was absent at the hearing of the leave application. After considering the documents filed by the applicant, the Judge dismissed the application for the reasons stated at [12]-[15] of the Leave Decision. Appeal to this court 4. In his Notice of Appeal dated 18 June 2026, the applicant stated amongst other things that “the COI [4] is misleading”, and that state protection is not available to him in Nigeria. He also stated that he would be “going to face hardship” upon refoulement, and it would not be viable for him to internally relocate, if refouled. 5. In his written submissions dated 21 July 2026, the applicant repeated the factual background of his claim and the alleged fears and risks of harm which he would allegedly face should he be refouled. He disagreed with the Leave Decision affirming the Board’s Decision, contending (without particulars or elaboration) that the

latter was unfair and contained errors of law, amounting to a “bias assessment”. 6. We heard the appeal on 6 August 2026, at which the applicant appeared in person. At the hearing, the applicant had nothing further to add to the matters already set out in the documents lodged with the Court.

Discussion 7. The principles governing appeals in non-refoulement cases are set out in *Nupur Mst v Director of Immigration*

[2018] HKCA 524 at [14]. In particular, in an appeal against refusal of leave to apply for judicial review in non-refoulement cases, the Court of Appeal will only examine the decision of the judge in light of the grounds advanced by the applicant. If no viable ground is put forward to reverse the judge’s decision, the appeal should be dismissed. Assertions by the applicant of fear, if refouled, do not constitute proper grounds of appeal: *Re Saldua Dorothy Trifalgar*

[2022] HKCA 627 at [6]. 8. The Court’s role is not to examine the decision maker’s decision afresh as if it were a fresh application for judicial review. Nor is an appeal 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. The assessment of evidence, Country of Origin information, risk of harm, state protection and viability of internal relocation are primarily within the province of the Board and the Director. 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 judge or was otherwise plainly wrong: *Re Kartini*

[2019] HKCA 1022 at [13]. 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 without particulars. 10. In the present case, the Board found the applicant’s evidence, on which he based his claim of fear of harm by the Nigerian Government, was inconsistent and incredible. The applicant was unable to show that he has ever been harmed by the Nigerian Government or that he was targeted by it. The Board also found that the issue of internal relocation did not arise as the applicant was able to safely travel in and out of Nigeria without hindrance, and that his family had been able to live peacefully at his/their home in Lagos. 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 [10]-[15]. 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 the applicant advanced no viable grounds of appeal against the Judge’s decision, and there is no merit in the appeal, we dismiss the appeal accordingly. (Aarif Barma) Justice of Appeal (Simon Leung) Judge of the Court of First Instance The applicant, unrepresented, appearing in person [1]

[2026] HKCFI 3232 [2] The Judge also refused to extend time for the applicant to file his Form 86.
[3] https://legalref.judiciary.hk/doc/judg/html/vetted/other/en/2022/HCAL000615_2022_files/the_Board's_Decision.pdf [4] Meaning country of origin information.

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