

HONG KONG / JUDGMENT

RE SURYADI AHMAD

[2026] HKCA 964**COURT**

Court of Appeal

DECIDED

19 May 2026

CASE / FILE NUMBER

CACV237/2026

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

CACV 237/2026, [2026] HKCA 964 On appeal from [2026] HKCFI 1088 IN THE HIGH COURT OF THE HONG KONG SPECIAL ADMINISTRATIVE REGION COURT OF APPEAL CIVIL APPEAL NO. 237 OF 2026 (ON APPEAL FROM HCAL NO. 1331 OF 2025) RE SURYADI AHMAD Applicant

Before: Hon Chu VP and Cheng J in Court Date of Hearing: 5 May 2026 Date of Judgment: 19 May 2026

JUDGMENT

Hon Chu VP (giving the Judgment of the Court): This is the appeal of the applicant against the decision of Deputy High Court Judge K W Lung (“the Judge”) given on 5 March 2026 dismissing his application for leave to apply for judicial review. The intended judicial review is in respect of the decision dated 15 May 2025 of the Torture Claims Appeal Board (“the Board”) which dismissed his appeal against the decision dated 27 February 2025 of the Director of Immigration (“the Director”) rejecting his claim for non-refoulement protection having regard to the torture risk, BOR 3 risk, persecution risk and BOR 2 risk grounds.

Background

The applicant is a national of Indonesia born in 1990. He last entered Hong Kong as a visitor on 29 April 2023 and was allowed to stay until 29 May 2023. He overstayed and was arrested by the Immigration Department on 3 November 2023. On 23 December 2024, he lodged a non-refoulement claim on the basis that if he returned to Indonesia, he would be harmed or killed by his creditor due to his inability to repay his loan. Details of the applicant’s claim, the arguments advanced before the Board as well as the Board’s reasons for rejecting his appeal have been set out in the Board’s decision. We will not repeat them. The Board heard the applicant’s appeal

against the Director's decision at an oral hearing on 17 September 2024. The Board dismissed the appeal, finding there was no factual basis to support any of the applicable grounds in that the applicant's evidence did not show any real risk that he would be subjected to serious harm and state protection and internal relocation options were available. In particular, the Board did not consider there was imminent threat to the applicant's safety, observing that the creditor only made only verbal threats to the applicant's family, had never harmed them or damaged their property, and did not contact the applicant after his debt became due. The Board also found, on the available evidence, that no serious physical or mental harm has ever been inflicted upon the applicant by his creditor and even if it had been, the harm or injury did not meet a minimum level of severity, there was no substantial ground to believe there would be a foreseeable and real risk of the applicant being subjected to serious harm, and any risk of harm would be negated or mitigated by the availability of state protection and internal relocation options. The Board thus concluded that the applicant failed to establish the threshold required for protection under the applicable grounds. The Judge's decision

The applicant filed a Form 86 on 11 June 2025 to apply for leave to judicially review the Board's decision. He set out his grounds for seeking relief in his affirmation, which were that he objected to the Board's decision and he wanted to talk to the adjudicator again. The Judge dealt with the application on paper. By a Form CALL-1 dated 5 March 2026, he dismissed the application. In summary, the Judge considered that the applicant had not raised any valid ground to challenge the Board's decision, and had failed to show that his intended judicial review has realistic prospect of success. This appeal

By a Notice of Appeal filed on 12 March 2026, the applicant appeals the Judge's decision to this Court. Other than stating that the Board's decision was wrong, the Notice of Appeal did not set out any substantive grounds of appeal. In his written submissions lodged on 21 April 2026, the applicant reiterated the factual basis of his claim. He stated that he deeply and truly afraid feared his creditor and his associates would attack and harm him due to the unpaid debt, and he would not receive effective state protection. He asked that consideration be given to his circumstances and the real risk of harm he would face on returning to his country. The appeal was listed for hearing on 5 May 2026. On 28 April 2026, the applicant applied for legal aid and a memorandum giving notice of the application was filed by the Director of Legal Aid on 29 April 2026. Pursuant to section 15 of the Legal Aid Ordinance, Cap. 91 and regulation 7A of the Legal Aid Regulations, Cap. 91A, the proceedings in this appeal were to be stayed for 42 days. However, at the hearing, the applicant informed us that he had no objection to proceeding with the hearing of the appeal. We note that as early as 12 March 2026, when he filed the appeal, the applicant already had notice of the hearing date. He, however, only applied for legal aid in the week before the hearing. He gave no explanation for the late application. We also considered that there was no unfairness or prejudice to the applicant in proceeding with the hearing of the appeal, given that he has set out his grounds in the notice of appeal and has lodged a written submission in support of the appeal. The applicant is also prepared to proceed with the hearing of the appeal and did not object to hearing the appeal as scheduled. We were of the view that it would be appropriate to lift the stay. We therefore lifted the stay and proceeded to hear the appeal. In respect of the appeal, the applicant informed us at the hearing that he had nothing to add to what was stated in his notice of appeal and written submissions. Our reasons for decision

In assessing the merits of the appeal, we have regard to

the legal principles which this Court has adopted in dealing with appeals in non-refoulement cases: see *Nupur Mst v Director of Immigration* [2018] HKCA 524 at [14]; *Re Md Shohel Sheak* [2018] HKCA 714 at [13]; and *Re Limbu Birkhaman* [2019] HKCA 50 at [11]. In particular, the role of the Court in a judicial review is not to provide a further avenue of appeal. 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. In the determination of an appeal against the refusal of leave by the Court of First Instance, 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. It is not the role of this Court to examine the decision of the Board afresh as if the appeal were a fresh application for judicial review. Further, it is well established that the assessment of evidence, COI, risk of harm, state protection and viability of internal relocation are primarily within the province of the Board and the Director as they are the primary decision makers. The Court, in its supervisory role, will not intervene by way of judicial review unless there are errors of law, procedural unfairness or irrationality in the decision of the Board: *Re Kartini* [2019] HKCA 1022. In this appeal, the applicant only repeats the factual basis of his claim, but has not pointed to any errors of law, procedural unfairness or irrationality in the decision of the Board. Nor has he identified any error in the Judge's refusal to grant leave for him to apply for judicial review. The Board had considered the applicant's evidence in details and found it did not establish any substantial grounds for believing that he would face a real or substantial risk of harm in his country. The Board further had regard to the country-of-origin information and the facts of the case, and considered that any risk of harm that the applicant might face could be negated or reduced by state protection and internal relocation options. These were findings open to the Board based on the evidence in the case and for the detailed reasons it gave. The applicant's mere assertions that he genuinely fears harm from his creditor and there is no effective state protection do not constitute viable grounds to vitiate the Board's decision. The intended judicial review therefore has no prospect of success. The Judge did not err in refusing to grant leave to apply for judicial review. As there are no merits in the appeal, we dismiss the appeal. (Carlye Chu) Vice-President (Yvonne Cheng) Judge of the Court of First Instance The applicant, unrepresented, acted in person.

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=180915

CASE PAGE <https://chat.esheria.ai/case-law/hong-kong/re-suryadi-ahmad-2026>

Prepared on 26 October 2026 · Esheria