

APPEAL COMMITTEE

REGINA V. SECRETARY OF STATE FOR THE HOME DEPARTMENT
(RESPONDENT) *EX PARTE* AL-HASAN (FC) (PETITIONER)

REGINA V. SECRETARY OF STATE FOR THE HOME DEPARTMENT
(RESPONDENT) *EX PARTE* CARROLL (FC) (PETITIONER)

CONSIDERATION OF PETITIONS FOR LEAVE TO APPEAL

REPORT

Ordered to be printed 10th July 2003

LONDON

SIXTY-FOURTH REPORT

from the Appeal Committee

10TH JULY 2003

ORDERED TO REPORT

1. The petition of Abdullah Muhammad Al-Hasan praying for leave to appeal was presented and referred to an Appeal Committee on 15 October 2001. The petition of Michael Carroll praying for leave to appeal was presented and referred to an Appeal Committee on 17 October 2001.

2. When lodging their petitions, the petitioners asked that consideration of both petitions should be deferred until after the House had given judgment in *Regina v. Kansal (Respondent) (On Appeal from the Court of Appeal (Criminal Division))*, *Regina v. Rezvi (Appellant) (On Appeal from the Court of Appeal (Criminal Division))* and *Regina v. Benjafield (Appellant) (On Appeal from the Court of Appeal (Criminal Division))*. The respondent (Treasury Solicitor) agreed. The House gave judgment in the first of these appeals on 29 November 2001 ([2001] UKHL 62) and in the second and third on 24 January 2002 ([2002] UKHL 1 and 2 respectively).

3. The petitioners further asked that their petitions be held over until the European Court of Human Rights had given its decision in *Ezeh & Connors v. United Kingdom* (Applications 39665/98 & 40086/98). Again, the respondent agreed. A Chamber of the ECHR gave judgment on 24 June 2002. The Government then appealed to a Grand Chamber, which has yet to hear the appeal.

4. On 7 January 2003 the petition of Richard Greenfield praying for leave to appeal notwithstanding that the time limited by Standing Order II has expired was presented and referred to an Appeal Committee. This petition raised a related point to those of Al-Hasan and Carroll but sought a decision from the Appeal Committee before the Grand Chamber hearing in *Ezeh & Connors*.

5. The papers on all three petitions were then sent to an Appeal Committee which was not made aware of the agreement to delay consideration of the petitions of Al-Hasan and Carroll until the final judgment of the ECHR.

6. On 13 March 2003 the Appeal Committee refused leave to appeal in the cases of Al-Hasan and Carroll but granted leave in the case of Greenfield. A full appeal by Greenfield has now been presented and the House awaits the statement of facts and issues.

7. The petitioners Al-Hasan and Carroll drew attention to the fact that their petitions were placed before the Appeal Committee before the final judgment of the ECHR. Their petitions and correspondence were accordingly referred back to the Appeal Committee.

RECOMMENDATION

8. Having considered these further submissions the Appeal Committee have decided that it would be right to vacate the Orders made pursuant to the 33rd Report from the Appeal Committee on 13 March 2003, refusing leave to appeal to Al-Hasan and Carroll; and that the petitions be reconsidered after the judgment of the Grand Chamber of the European Court of Human Rights in *Ezeh & Connors v. United Kingdom* and after the petitioners have had an opportunity to amend their petitions in the light of that judgment.

The Committee was attended by:
Bingham of Cornhill, L.
Hutton, L.
Rodger of Earlsferry, L.