HIGH COURT OF AUSTRALIA

11 April 2018

WET044 v THE REPUBLIC OF NAURU
[2018] HCA 14

Today the High Court unanimously dismissed an appeal from the Supreme Court of Nauru. The Court held that there was no merit to the appellant's contentions that the Refugee Status Review Tribunal ("the Tribunal") had failed to consider relevant country information or that he had been denied procedural fairness.

The appellant is an Iranian citizen of Faili Kurdish ethnicity. He arrived by boat at Christmas Island in 2013 and was subsequently transferred to Nauru. There he applied under the *Refugees Convention Act* 2012 (Nr) to be recognised as a refugee or, alternatively, as a person to whom Nauru owed complementary protection under its other international obligations. The application was refused by the Secretary of the Department of Justice and Border Control ("the Secretary"). The appellant appealed to the Tribunal. The appellant's legal representative placed before the Tribunal additional evidence, submissions, and material in support of those submissions, including country information. The Tribunal accepted that failed asylum seekers may be at risk if returned to Iran, but did not accept that mere membership of that group gave rise to a well-founded fear of persecution. The Tribunal adopted the reasons and affirmed the decision of the Secretary. The appellant appealed this decision to the Supreme Court of Nauru. The Supreme Court dismissed the appeal.

The appellant appealed as of right to the High Court. The appellant alleged error by the Tribunal, arguing that it failed to deal with the country information submitted by the appellant regarding the risk of returning to Iran as a failed asylum seeker. The appellant subsequently sought leave to amend his notice of appeal to expand the first ground and insert a new ground contending that the Tribunal acted in a way that was procedurally unfair by failing to put to him the nature and content of country information it relied upon concerning the risk of harm to Kurds who are Shia Muslim. Neither ground was raised before the Supreme Court of Nauru.

The High Court considered there to be no merit in either ground of appeal. The country information regarding failed asylum seekers was read by the Tribunal. Further, most of the additional information was before the Secretary in one form or another and did not contradict the opinions stated by the Secretary. In relation to the second ground, the Court found that the country information relied upon by the Tribunal was in fact known to the appellant. The Court therefore refused leave to amend the notice of appeal and dismissed the appeal.

- *This statement is not intended to be a substitute for the reasons of the High Court or to be used in any later consideration of the Court's reasons.*

Please direct enquiries to Ben Wickham, Senior Executive Deputy Registrar
Telephone: (02) 6270 6893 Fax: (02) 6270 6868
Email: enquiries@hcourt.gov.au Website: www.hcourt.gov.au