Neutral Citation [2016] IEHC 466

**THE HIGH COURT**

**JUDICIAL REVIEW**

**[2014 No. 669 J.R.]**

**BETWEEN**

**A.M.A.**

**APPLICANT**

**AND**

**MINISTER FOR JUSTICE AND EQUALITY**

**RESPONDENTS**

**JUDGMENT of Mr. Justice Richard Humphreys delivered on the 29th day of July, 2016**

1. The applicant is a native of Somalia and was born in Mogadishu on 15th March, 1982.

2. In 2002, he contracted a first marriage with Ms. S.H.A., which he said was a traditional marriage.

3. In 2003, he came to Ireland and sought asylum.

4. In October, 2004, he was granted refugee status. In 2005, he applied for family reunification for the benefit of his first wife. On 27th September, 2005, he filled in a questionnaire in support of that application stating that his marriage was religious (rather than ticking the option for legal marriage).

5. On 23rd November, 2006, the application for family reunification with his first wife was granted.

6. On 3rd December, 2007, he applied for naturalisation as an Irish citizen.

7. He says that his marriage broke down in or about 2008 and the parties separated in 2009.

8. In August 2009, he contracted a second marriage in Ethiopia to Ms. K.X.C.A., who was 16 years of age at the time. The legal age for marriage in Ethiopia is 18. Marriages below that age are invalid unless a dispensation is obtained, although they may be deemed lawful once the bride attains her majority.

9. On 15th June, 2012, he made a second application for family reunification for the benefit of his second wife.

10. A questionnaire was sent to him on or about 19th June, 2012 (the date which appears at the front of the document) and appears to have been filled in on or about 11th July, 2012 (the date at the end of the document). In this questionnaire, he stated referring to his second marriage that it was a traditional marriage "only" and did not comply with the formalities of a legal marriage.

11. On 7th September, 2012, in the context of the second family reunification application, a report from the Refugee Applications Commissioner was sent to the applicant setting out certain matters regarding the family law situation in Ethiopia.

12. On 11th September, 2012, a positive recommendation was prepared for the Minister in respect of his naturalisation application. The Minister did not, however, approve the application, but returned it to officials with queries.

13. The matter came back to the Minister on 4th December, 2012, which resulted in further queries from him, one of which was a highly pertinent comment that *"the applicant appears to regard it as appropriate to be a party to two traditional marriages".*

14. Having encountered submissions to Ministers in different contexts it is heartening to see the very detailed and pertinent engagement by the Minister personally with the detail of this application. Unfortunately for the applicant, however, the bringing to bear of a more searching analysis to that application appears to have altered the direction of the Department's recommendations as the matter evolved.

15. On 12th April, 2013, the applicant was written to and asked to clarify certain matters including the legal status of his second marriage. Despite the fact that a reasonable person should have been put on alert by a letter of this kind, his reply on this point was laconic if not evasive and he simply repeated that it was "traditional". This did not answer the question. It added nothing to his questionnaire and it is hard to see how he could have reasonably thought that this was an adequate response.

16. On 7th August, 2014, the naturalisation application was refused by the Director General of the Irish Naturalisation and Immigration Service. The applicant was notified of this refusal by letter dated 26th August, 2014, received on 28th August, 2014.

17. On 24th September, 2013, this application for family reunification for the benefit of his second wife was refused, primarily on the basis that the Minister was not satisfied that it was a lawful marriage due to the previous marriage and the underage nature of the second marriage in any event.

18. The present proceedings challenging the refusal of the naturalisation application were instituted on 13th November, 2014. The application is within time because the 3 month period applies to naturalisation decisions, which oddly fall outside s. 5 of the Illegal Immigrants (Trafficking) Act 2000. Leave was granted by Mac Eochaidh J. on 17th November, 2014.

19. The second wife currently remains in Ethiopia with the couple's two children.

**Procedural issues**
20. The applicant sought to introduce a late affidavit which was received the day before the hearing. Mr. Daniel Donnelly B.L., for the respondents, very candidly and properly accepted that if the affidavit was to be admitted, he would not be seeking an adjournment in order to deal with it. Under those circumstances, I permitted the late affidavit.

21. A further issue arose in relation to a fall back argument from Mr. Colm O'Dwyer S.C. (with Ms. Patricia Brazil B.L.) in the course of his very able argument for the applicant that there was a failure by the Minister properly to consider s. 16 of the Irish Nationality and Citizenship Act 1956 (the power to waive conditions of naturalisation). Objection was taken to this argument on the grounds that it was not pleaded. Mr. O'Dwyer firstly submitted that it came within grounds 4, 5 and 7. In my view, it clearly does not, as those grounds do not have the specificity that is required under the amendments introduced by the Rules of the Superior Courts (Judicial Review) 2011.

22. Even if it had been pleaded, the point he wished to make has already been rejected by Cooke J. in *A.B. v. Minister for Justice, Equality and Law Reform* [2009] IEHC 449 (Unreported, High Court, Cooke J., 18th June, 2009) at para. 15. Having decided to reject an application on particular grounds, a decision-maker is not then required to go on to consider separately and expressly whether to waive those grounds.

**How wide is the Minister's discretion in naturalisation decisions?**
23. The 1956 Act describes the Minister's discretion as "*absolute*" (s. 15(1)), which means not literally unconstrained but as absolute as it is possible to be in a system based on the rule of law. In practice this is a very wide discretion: see *A.B. per* Cooke J. at para. 19; *Tabi v. Minister for Justice, Equality and Law Reform* [2010] IEHC 109 (Unreported, High Court, Cooke J., 16th April, 2010); *M.A.D. v. Minister for Justice and Equality* [2015] IEHC 446 (Unreported, High Court, Stewart J., 14th July, 2015).

24. It is clear that in public law decisions, the extent of natural justice varies according to context (see my decision in *Z.K. v. Reception and Integration Agency* [2016] IEHC 20 (Unreported, High Court, 15th January, 2016), and that of Noonan J. in *Hosford v. Minister for Social Protection* [2015] IEHC 59 (Unreported, High Court, 6th February, 2015)). It is not a "one size fits all" doctrine. While some decisions, such as a conviction in the criminal process, or interference in the relationship between a parent and child, require the dial to be turned up to the maximum in terms of natural justice and fair procedures, other decisions involve a lower standard and indeed some decisions, such as the adoption of legislative measures, "political questions" or the exercise of managerial authority, do not attract fair procedures in any meaningful sense at all.

25. Naturalisation is a privilege and not a right. For many centuries, such decisions were reserved to the legislature. Obviously, fair procedures do not apply to a sovereign decision to decline to enact a particular piece of legislation. Schedule 2 to the Statute Law Revision Act 2009 and Sch. 2 to the Statute Law Revision Act 2012 list several hundred such naturalisation Acts enacted between 1558 and 1896. Thereafter, the grant of naturalisation has been an executive function, with only minimal regulation by the legislature.

26. While of course reasons for an adverse executive decision on naturalisation must be provided (*Mallak v. Minister for Justice, Equality and Law Reform* [2012] IESC 59 (Unreported, Supreme Court, 6th December, 2012) *per* Fennelly J. (Denham C.J., Murray, O'Donnell and McKechnie JJ. concurring); see also *O.T.A. v. Minister for Justice and Equality* [2016] IEHC 173 (Unreported, High Court, Faherty J, 15th April, 2016)), that was done in this case.

27. Insofar as additional stipulations of natural justice above and beyond reasons are required in the naturalisation context, any such additional requirements must be minimal and very much at the lower end of the scale of contextual fair procedures to which I have referred: see *Pok Sun Shum v. Ireland* [1986] I.L.R.M. 593 *per* Costello J. at p. 599, *Hussain v The Minister for Justice* [2011] 3 I.R. 257 per Hogan J. at p. 265, para. 21, *M.A.D. per* Stewart J. at paras. 35 to 39. Mr. O'Dwyer stresses that the naturalisation decision is important to the applicant, which I am sure it is. But given the nature of the executive power in issue, it would be inappropriate and indeed unhistorical to apply an exacting standard of review to ministerial decisions in this regard.

28. In short, the Minister has a very wide discretion in naturalisation, as absolute as it is possible to get in a system based on the rule of law. Reasons must be provided but beyond that it would take exceptional circumstances (such as a misrepresentation of the case against the application: *G.K.N. v. Minister for Justice and Equality* [2014] IEHC 478 (Unreported, High Court, Mac Eochaidh J., 22nd October, 2014)) before the Minister could be said to have failed to apply the minimal level of natural justice applicable in the context of a privilege such as naturalisation.

**What was the basis of the refusal of the application?**
29. Mr. O'Dwyer submits that the decision letter refers to s. 15 of the Act rather than s. 16 and is therefore an *in limine* rejection of the application on the grounds that it fails to meet the statutory criteria, rather than because it is the exercise of an absolute discretion. This submission appears to be correct.

30. The reason why the application for naturalisation was refused was because the Minister was not satisfied that the applicant was of good character, pursuant to s. 15 of the 1956 Act. There were three reasons for the decision:-

(i) his conduct and veracity regarding his marital status;

(ii) his traditional marriage to an underage girl; and

(iii) his disregard for the family reunification process.

31. There was disagreement at the hearing as to whether the decision consisted of the more lengthy narrative consideration, or the letter accompanying it and notifying the applicant of the position. I think that the respondent's analysis of the situation is preferable, namely that the narrative consideration, which is initialled by the director general, constitutes the decision, and the covering letter is the notification of that decision. However, nothing turns on this because both documents need to be read together in any event.

32. While it is true that the present decision is not based on the "absolute" nature of the Minister's discretion, the discussion in the previous section of this judgment regarding the wide nature of the Minister's powers in relation to naturalisation is not irrelevant to the question of how the Minister may address the threshold requirements of s. 15. Here too, the Minister must enjoy a broad and significant level of discretion and judgment as to how to approach questions such as the requirement of good character.

**Were either of the applicant's marriages legally valid?**
33. A major concern to the Minister was the legal status of the marriages. For most of the process, the applicant was happy to metaphorically sit on his hands in relation to this matter and, himself or through his lawyers, to issue repetitious laconic

pronouncements to the effect that the marriages were merely religious or traditional. Mr. O'Dwyer made repeated complaints at the hearing as to the lack of evidence before the Minister as to the legal position in either country. This seems to mischaracterise the nature of the process that the applicant was involved in. It is the applicant's application, and it is the applicant who must demonstrate his qualification for naturalisation. The onus is on the applicant to provide all appropriate evidence in this regard. He has failed to do so in many important respects. In one sense, that is enough to dispose of this case.

34. Insofar as I can come to any finding as to the validity of the marriages, I am doing so on very meagre evidence.

35. Mr. O'Dwyer submits that for much of the relevant period there was no functioning government in Somalia and no system for registration. It seems to follow from that, as a matter of logic, that either religious or traditional marriage was recognised for legal purposes or alternatively that legal marriage in Somalia was impossible. Given the inherent unlikelihood of the second option and the chaotic situation it would create for legal purposes, even bearing in mind that the state was a partially notional entity for the period in question, I infer that the former is the more likely situation. It follows from that that it is more likely than not that the first marriage was valid, assuming that it was properly carried out in terms of traditional or religious requirements. Mr. O'Dwyer submitted that it was a point in his favour that no-one had produced evidence that the marriage was properly celebrated in this respect. This is not a point in his favour. It is the applicant who is saying that he had a traditional marriage. It therefore follows that on the applicant's own case it is more likely than not that it was celebrated in accordance with traditional or religious requirements, and I draw that conclusion.

36. Turning now to the second marriage, having regard to such evidence of Ethiopian law as is available, it would appear that if (as I conclude) the first marriage was lawful, then it would have to be dissolved before a second valid marriage could take place.

37. The Ethiopian lawyer who swore an affidavit on behalf of the applicant, Ms. Abebe, states at para. 21 that dissolution of a previous marriage is "*presumed*" after an unspecified period of separation. In the present case, however, that issue could not be decided on the basis of a presumption, because any such presumption is rebutted by the statement of the applicant that he never obtained such a divorce in respect of the first marriage. Furthermore there was no significant period of separation between the marriages from which a dissolution could be presumed in any event. I draw the conclusion that the first marriage was not dissolved in Ethiopian law as of the time of the second marriage.

38. There is some element of agreement as to the legal position in Ethiopia where the second marriage was celebrated. It is agreed that religious and traditional marriages are legally recognised, and while in theory they must be registered with the state, Mr. O'Dwyer accepts that the validity of such marriages was not dependent on registration. It appears to be the case that the second marriage was not registered. Mr. O'Dwyer makes the same point referred to above that no-one has established that this marriage was correctly celebrated in religious terms but that point is without substance for the same reason already referred to. It is the applicant who is claiming to have been religiously or traditionally married. There is no basis for him now to suggest that no-one has proven he was correct in having so claimed. The applicant cannot speak out of both sides of his mouth in the simultaneous manner attempted. It is again more likely than not that the second marriage was celebrated in accordance with traditional or religious requirements.

39. That second marriage was with a girl below the legal age for marriage. There is no evidence of a dispensation (again Mr. O'Dwyer incorrectly considers that this is somehow a point in his favour). It was therefore invalid (and for good measure involved an offence) in Ethiopian law at the time, but (subject any issue of bigamy) would appear to have been capable of becoming regarded as valid when the second wife turned 18.

40. I should mention that in supplementary written submissions filed after the hearing, the applicant claimed that "*a marriage that wasn't valid because of the age of the bride at the time of the marriage becomes valid and binding when she passes 18 years if the marriage is then registered with the State Authorities*" (emphasis in original, submissions of 5th July 2016 p. 2). This extraordinary submission contradicts the applicant's position at the hearing, which was that he agreed that registration was not required for validity, and para. 20 of Ms. Abebe's affidavit to the same effect, but furthermore the notion that an underage marriage requires registration to be valid is wholly unsubstantiated by Ms. Abebe's affidavit which simply says on this point that "*the law considers the marriage as valid at this time. Thus the marriage … can be registered*". The applicant has attempted belatedly to erect a smokescreen to suggest that the marriage is only recognised if registered after age 18. This is a completely unsubstantiated suggestion made in the teeth of the evidence and the applicant's approach at the hearing. I find that a marriage to an underage girl is regarded as legally valid if subsisting when she turns 18, whether with or without registration.

41. As I have concluded that the first marriage was more likely than not to have been legally valid and not dissolved, the second marriage was therefore more likely than not to have been bigamous and invalid. If I am wrong about the first conclusion, it would follow that the second marriage was more likely than not to have been legally effective, with effect from the second wife's 18th birthday.

42. The difficulty the applicant has in relation to all of these matters is that he represented to the Minister in the course of the two family reunification applications that what was at issue in each case was a traditional or religious marriage, and that, whether inferentially or expressly depending on how one reads his representations, neither such marriage was of legal effect.

43. For the reasons I have set out, those representations appear to me to have been likely to be incorrect and misleading. If there had been only one marriage, this might not have been quite so significant. But given the second marriage, a clear question of its legal status arose; a question that the applicant failed at all material times to take seriously or to address in any meaningful manner. That failure continued throughout these proceedings, including the furnishing of an affidavit the day before the hearing which cast light on some, but by no means all, of the pertinent issues.

44. Mr. O'Dwyer challenged the decision as being invalid, particularly by reference to its unreasonableness, under a number of headings, which I will deal with in sequence.

**Did the Minster wrongly regard the applicant as having committed an offence?**

45. Complaint is made of reference to the applicant having been involved in an "*offence*", whereas he has never been charged or convicted with an offence in any jurisdiction. It seems to me that a reading of the documents as a whole indicates that the Minister was not referring to formal conviction as such but rather to material indicative of the commission or likely commission as a matter of fact namely a marriage to an underage girl. Describing this as an "*offence*" is not an error of law or fact and does not give rise to grounds for judicial review of the decision.

**Did the Minister wrongly find that there had been a lack of veracity regarding the applicant's marital status, going to character?**

46. It is also suggested that it was unreasonable for the Minister to hold that there had been a lack of veracity regarding the martial

status of the applicant. Mr. O'Dwyer submits that he stated at all times that these were religious marriages and therefore there was no inaccuracy. Consequently, there was nothing to go to his character. However, in my view, the applications for family reunification gave the distinct impression (at the very minimum) that neither marriage had any legal status. This is likely to have been incorrect as a matter of probability. In any event, even on the most charitable interpretation, highly important information about the legal consequences of the marriages was not put before the Minister. In those circumstances, I do not consider that the finding of a lack of veracity was unreasonable, or that there is any invalidity in regarding this as a matter going to character.

**Did the Minister wrongly find that there was a disregard for the family reunification process, or wrongly hold that any such disregard was an issue going to character?**

47. It is suggested that the finding that there was a disregard for the family reunification process was unreasonable. Mr. O'Dwyer submits that the applicant made a legitimate application at the time, and this cannot be termed a disregard of the process.

48. In support of the argument that an applicant is entitled to seek family reunification for a non-legal spouse, the applicant relies on the decision of Cooke J. in *Hamza v. Minister for Justice, Equality and Law Reform* [2010] IEHC 427 (Unreported, High Court, Fennelly J., 25th November, 2010), where he held that family reunification provisions of s. 18 Refugee Act 1996 are not confined to a lawful spouse (para. 23). This decision was appealed to the Supreme Court, which upheld the order of *certiorari* on other grounds but expressly reserved (and appeared to be sceptical about) the question of the correctness of this particular conclusion (see *Hassan v. Minister for Justice, Equality and Law Reform* [2013] IESC 8 (Unreported, Supreme Court, 20th February, 2013) *per* Fennelly J. at paras. 29 and 51 and *Hamza v. Minister for Justice, Equality and Law Reform* [2012] IESC 9 (Unreported, Supreme Court, 20th February, 2013) *per* Fennelly J at para 55).

49. In my view, there are really two separate questions involved in the issue of whether non-spouses can avail of the family reunification provisions applicable to spouses. The first question is the meaning of the word "*spouse*" in s. 18(3)(b) of the 1996 Act. The second question is whether persons other than spouses proper may be entitled to protection of family life with an applicant, either under the Constitution or the ECHR. To some extent these two separate questions are collapsed in the reasoning of Cooke J. in *Hamza* which is primarily based on international material supportive of the extension of rights to persons other than spouses.

50. Such material seems to be relevant only to the second question I have identified, namely whether certain rights may be exercisable separate and apart from s. 18 of the 1996 Act. On the narrow question as to what that section means, in my view there can be no doubt but that the word "*spouse*" has a defined and settled legal meaning. To creatively expand that definition would introduce intolerable uncertainty into the statute book, and I would decline to do so. "*Spouse*" in s. 18 of the 1996 Act means a person who is married to the refugee in a legally recognised and subsisting valid marriage on the date of the application for family reunification. That does not mean that a non-spousal partner cannot press a case for family reunification by virtue of rights to private and family life, but they must do so by means of an application for a permission under s. 4 of the Immigration Act 2004, as interpreted in the light of the Constitution and ECHR, instead of by claiming to be a "spouse".

51. The argument is made that both applications should have been granted because of *Hamza*, and that therefore the Minister could not lawfully have regarded them as abusive. However this is predicated on the proposition that the interpretation of s. 18 in *Hamza* was correct. I consider that it was not. Given that the order in *Hamza* was upheld on other grounds by the Supreme Court, that interpretation is clearly *obiter* and therefore not binding. I would decline to follow it for the reasons I have set out.

52. Having regard to the clear inadequacies in the applicant's application for family reunification, and indeed in the context of the major omissions in the information which he has chosen to put before the Minister, I do not consider the Minister's finding under this heading to be in any way unreasonable. The argument that the application was reasonable and legitimate is not sustainable. Representing both marriages as non-legal is unlikely to have been correct. The applicant has in my view been engaged in an abuse of the family reunification process by making applications for two spouses without any intervening divorce or proof that the first marriage was not lawful. This abuse clearly goes to character as the Minister properly found.

**Did the Minister wrongly find that the applicant was of bad character because of marriage to an under-age girl?**

53. Complaint is also made that a finding that the applicant was of bad character because he married an underage girl is unreasonable, on four grounds:-

> (i) Because there was no proof that there was no dispensation from the legal requirement of full age. Given that the applicant carries the burden of proof, I would rather see that question in terms that it is not unreasonable for the Minister to say that the applicant is of bad character in circumstances where the applicant has not proved that he availed of a dispensation.
>
> (ii) Because it was not a legal marriage anyway. This point does not have substance for reasons I have dealt with.
>
> (iii) Because (assuming it was not bigamous) it would have been considered valid after his second wife turned 18. That is all well and good but the Minister was entitled to have regard to the breach of the law involved at the time of the marriage.
>
> (iv) Because, as it was put by Mr. O'Dwyer, "*everybody's doing it*". The U.S. State Department analysis indicates that the law against underage marriage in Ethiopia is not enforced in any meaningful sense, and that report indicates that 40% of girls of 15 or under are married (at p. 4). Ms. Abebe in her affidavit (para. 7) says that such marriages are "*common*". While this is a statement of fact rather than law, and was objected to by Mr. Donnelly on that basis, it does not seem to me to be inadmissible as Ms. Abebe is in a position to make this observation from her own knowledge. In relation to this point, if the applicant had been resident in Ethiopia all along, it would have been unreasonable for the Minister to regard conduct on his part (that was of such prevalence in the population as a whole) as being evidence of bad character, without having to explain why the applicant was particularly more blameworthy than his peers. But the applicant had come to Ireland some six years before and claimed asylum. By doing so, he submitted at that point to Irish mores and standards of conduct. It is for an immigrant, including an asylum seeker, to submit to the expected standards of behaviour of the host country, including respect for its culture and values as appropriate, and not for that country to have to make its standards more elastic in response to the demands of new arrivals. It is therefore open to the Minister to hold the applicant to standards that would be regarded as appropriate in Ireland. Marrying a 16 year old girl without evidence of having a dispensation would be a contravention of such standards. The Minister's finding is not unreasonable under this heading.

**Is the decision contrary to fair procedures by reason of failure to put matters to the applicant?**
54. Complaint is made that the Minister's concerns regarding the underage marriage were not specifically put to the applicant. Reliance is placed on the decision of Hogan J. in *Hussain*, a case where the applicant had been questioned by Gardaí in relation to suspected offences. In those circumstances, the applicant was therefore aware of that Garda interest by definition (at para. 7). However, having regard to the special and dominant fact in that case that a Garda leaflet had given the applicant an incorrect view as to what matters were likely to be considered in a naturalisation application it was held that there was a breach of fair procedures in not putting to the applicant the issue of the criminal investigation as being a grounds for refusing his application insofar as that issue went outside the terms of the matters to be considered as set out in that leaflet.

55. The court in *Hussain* did not have opened to it the prior decision of Cooke J. in *Tabi* to the effect (at para. 9) that there is no obligation to put matters to an applicant in this context.

56. On any view, the fact that a belief is formed by An Garda Síochána that a person may have committed an offence is a factor that, provided the belief is reasonable, could be taken into account in determining whether the person is of good character. The failure to put an issue to the applicant in *Hussain* appears to have turned on very special and unlikely-to-be-repeated facts relating to a particular Garda leaflet which created the impression that only certain matters would be considered. The language in that decision must be read in that special context and the decision cannot be read as laying down any general or wider principle. In the absence of an applicant having somehow been misled as to what he or she needs to address, if a person is already aware of something (whether a Garda investigation or anything else) which it is reasonable to foresee could be taken into account, there can be no basis for suggesting that such a matter needs to be put to the applicant prior to refusing an application, including a naturalisation application.

57. There is no obligation to correspond with a naturalisation applicant in relation to something of which he or she is already aware. As to whether there is such an obligation at all, insofar as there is a conflict between *Tabi* and *Hussain,* one might be inclined to prefer the *Tabi* approach because the degree of fair procedures required in the context of an absolute discretion in the grant of a privilege must be calibrated at a low level. A court might be reluctant other than in an exceptional case to find an obligation to correspond with a naturalisation applicant or give specific notice.

58. In any event, this applicant was put on notice of the Commissioner's analysis of the validity of the second marriage on 7th September, 2012, which included a discussion of the lack of capacity (section 6.0). Further, he was asked on 12th April, 2013, to clarify the legal status of his second marriage. He failed to address these queries with the level of detail and seriousness that they demanded. Again, he contented himself throughout the process with laconic and uninformative assertions as to the marriages only having been religious or traditional. There was no breach of fair procedures.

**Is the decision disproportionate?**
59. Some of the foregoing argument was also phrased as a complaint about disproportionality. But for reasons essentially similar to those already set out, I do not consider that the decision was invalid under that heading either. On the contrary, the decision appears to be both proportionate and reasonable.

**Summary of principles involved**
60. The principles discussed above, apart from and beyond the specific findings of fact in this case which I have already set out at length, can be summarised as follows:

(i) Having decided to reject an application on particular grounds, a decision-maker is not then required to go on to consider separately and expressly whether to waive those grounds.

(ii) The Minister has a very wide discretion in naturalisation, as absolute as it is possible to get in a system based on the rule of law. Reasons must be provided but beyond that it would take exceptional circumstances before the Minister could be said to have failed to apply the minimal level of natural justice applicable in the context of a privilege such as naturalisation.

(iii) The onus rests on an applicant for naturalisation to furnish all necessary evidence to establish their claim. The present applicant has failed to discharge that onus.

(iv) The applicant's representations which implied that both of his marriages were religious or traditional only and without legal consequence are likely to have been incorrect and misleading.

(v) It was reasonable for the Minister to make a finding of a lack of veracity where an applicant put information before the Minister that is likely to have been incorrect as a matter of probability, and where in any event the applicant failed to put important information before the decision-maker.

(vi) The term "spouse" in s. 18 of the Refugee Act 1996 means a party to a valid, recognised and subsisting marriage at the time an application is made, and does not include a non-marital partner.

(vii) It is an abuse of the family reunification process to make applications for two spouses without any intervening divorce or proof that the first marriage was not lawful.

(viii) It is reasonable for the Minister to consider that marriage by an Irish resident to an underage person abroad is evidence of bad character.

(ix) The Minister is not obliged in the naturalisation process to give advance notice to an applicant of an adverse consideration of which the applicant is already aware.

**Order**
61. For the foregoing reasons, I will order that the application be dismissed.