THE HIGH COURT

JUDICIAL REVIEW

[2017 No. 157 JR]

BETWEEN

SULAIMON KAREEM

APPLICANT

AND

THE MINISTER FOR JUSTICE AND EQUALITY

RESPONDENT

Ex tempore JUDGMENT of Mr Justice David Keane delivered on 23 March 2018

Preliminary
1. This judgment is given *ex tempore* in accordance with the principles summarised by Humphreys J in *Walsh v Walsh (No. 1)* (Unreported, High Court, 2 February, 2017), [2017] IEHC 181 and, in particular, subject to the safeguard described by Munby LJ in *In re A. and L. (Children)* [2011] EWCA Civ. 1611 (at para. 47) and noted by Humphreys J (at paras. 15-16) whereby the parties will have the ability and, indeed, the duty to seek further elaboration or explanation from the court if they feel that something is missing.

Introduction
2. The applicant ('Mr Kareem') seeks, principally, an order of *certiorari* quashing the decision of the respondent ('the Minister'), dated 30 January 2017, refusing to grant him a certificate of naturalisation under s. 15 of the Irish Nationality and Citizenship Act 1956, as amended ('the Act of 1956'), because the Minister was not satisfied that Mr Kareem, who had recently driven a motor vehicle in a public place without insurance, was a person of good character. In addition, Mr Kareem seeks an order of mandamus compelling the Minister to re-consider his application for naturalisation and a declaration that the Minister's decision was 'disproportionate and unfair and offended basic fair procedures'.

3. Mr Kareem was given leave to seek certiorari of the said decision by Order of Noonan J made on 27 February 2017.

Background
4. The essential facts are these. Mr Kareem applied for naturalisation on 22 September 2014.

5. In an undated letter that was received by the Irish Naturalisation and Immigration Service ('INIS') of the Department of Justice on 3 December 2015, Mr Kareem stated in material part:

> 'I am writing in regards to my recent update concerning my application for my citizenship as I recently got a letter to provide details regarding my court date on 25/06/2014 in Tralee, Co. Kerry.
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> The offence was I had no insurance the result of the court case was a strike out meaning no convictions no further action. I got a poor box fine of €1,000 which was paid in full to the courts. I have attached a copy of the receipt with this current letter and I just want to point out that when making my application I also attached a copy of the receipt with find paid and an explanation.
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> I do regret the decision to drive without insurance even if it was out for [a] few days I had to take my little boy to school and the weather was very bad. I sincerely hope this will not affect my application for my citizenship.'

6. The INIS wrote to Mr Kareem on 30 January 2017, stating that the Minister, having considered his application, was not satisfied that he was a person of good character and had decided not to grant him a certificate of naturalisation for that reason.

7. A copy of the submission on Mr Kareem's application, prepared by the INIS for the Minister's consideration, with the Minister's decision annotated upon it, was enclosed with that notification for Mr Kareem's information.

8. That submission states in material part:

> 'Comments: Sulaimon Kareem has come to the attention of An Garda Síochána in respect of a no insurance offence. The court outcome was a strike out and a poor box fine of €1,000. The poor box fine imposed was paid. Please see attached copy of Garda Report and letter of explanation from the applicant.
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> …
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> Recommendation: Although the Garda Report states the no insurance conviction has been struck out, given that he did drive with no insurance, and given the recency of the offence, I am not satisfied that the applicant is of good character and I would not recommend the Minister grant a certificate of naturalisation in this case.'

9. The attached Garda Report did indeed record that Mr Kareem had appeared before Tralee District Court on 25 June 2014 charged with an offence of using a motor vehicle without insurance, contrary to s. 56 of the Road Traffic Act 1961, as amended, which charge was struck out after he made a payment into the court poor box of €1,000.

Law
i. *the statutory requirement of good character*

10. Section 15 of the Act of 1956 provides in material part as follows:

> '(1) Upon receipt of an application for a certificate of naturalisation, the Minister may, in his absolute discretion, grant the application if satisfied that the applicant-

…

(b) is of good character

….'

ii. *the meaning of 'good character' properly construed*

11. In *Hussain v. Minister for Justice* [2013] 3 I.R. 257, Hogan J explained (at 263):

'[14] There is no settled or fixed interpretation of the words "good character". Applying the standard principle of *noscitur a sociis*, these words accordingly take their meaning according to the relevant statutory context and general objects of the legislation: see, e.g., the comments of Henchy J. in *Dillon v. Minister for Posts and Telegraphs* (Unreported, Supreme Court, 3rd June, 1981). It is implicit from the general tenor of s. 15 that the section is designed to empower the Minister to grant naturalisation to persons who have resided here for an appreciable period of time and who intend to do so in the future. Furthermore, the fact that s. 15(e) requires the applicant to make a declaration - generally in open court before a judge of the District Court - of "fidelity to the nation and loyalty to the State" suggests that such a person must be prepared to make a public commitment that they will discharge ordinary civic duties and responsibilities, given that the these words are themselves borrowed directly from Article 9.2 of the Constitution of Ireland 1937.

[15] It is against this background that the words "good character" must be understood and measured. Viewed in this statutory context, it means that the applicant's character and conduct must measure up to reasonable standards of civic responsibility as gauged by reference to contemporary values. The Minister cannot, for example, demand that applicants meet some exalted standard of behaviour which would not realistically be expected of their Irish counterparts. Nor can the Minister impose his or her own private standard of morality which is isolated from contemporary values.'

iii. *the scope of the Minister's discretion under s. 15 of the Act of 1956*

12. In *A.M.A. v Minister for Justice and Equality* [2016] IEHC 466, Humphreys J succinctly summarised the scope of the Minister's discretion in the following way:

> '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. v. Minister for Justice, Equality and law Reform* [2009] IEHC 449 *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).
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> 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.
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> 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.
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> 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.
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> 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.
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> 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.'

13. While even the limited scope of the review available, as a requirement of the rule of law, to a person seeking to challenge an adverse decision on an application for naturalisation must include the entitlement to do so on grounds of unreasonableness or irrationality, the principle of proportionality can have no part to play in what is otherwise the appropriate test *i.e*. that summarised by the Supreme Court in *Meadows v Minister for Justice* [2010] 2 IR 701 (at 743-744)), since naturalisation is solely a privilege and, thus, no right is in the balance; see *Zaigham v. Minister for Justice* [2017] IEHC 630, (Unreported, High Court (Faherty J), 6th October, 2017) (at para. 32). On the other hand, as Fennelly J observed in *Mallak v. Minister for Justice, Equality and Law Reform* [2012] IESC 59, [2012] 3 I.R. 297 (at 313), the fact that a decision is made at the absolute discretion of the Minister does not permit that discretion to be exercised arbitrarily or capriciously, nor, in the words of Hogan J in *Hussain* (at para. 17), is the Minister free in those circumstances to act in an autocratic or arbitrary fashion.

iv. *the criminal offence of driving without insurance*

14. Under s. 56 of the Road Traffic Act 1961, as amended ('the 1961 Act'), it is a criminal offence to use a mechanically propelled vehicle in a public place unless either an exempted person is liable for any injury caused by the negligent use of the vehicle or there is in force an approved policy of insurance in respect of such use. A person convicted of that offence is liable on summary conviction to a fine not exceeding €5,000 or, at the discretion of the court, to imprisonment for any term not exceeding six months or to both such fine and such imprisonment.

15. Section 26 of the 1961 Act provides that the court shall make a consequential disqualification order, disqualifying a person convicted of a scheduled offence, including the offence of driving without insurance, from holding a driving licence for not less than one year, save that, under sub-s. (5)(b), where a person is convicted summarily of a first offence under s. 56, the court may decline to make a consequential disqualification order or specify a disqualification period of less than one year, where it is satisfied that a special reason has been proved by the convicted person to exist in his case to justify such a course, such special reason to be specified by the court when making its order.

16. Further, as pointed out in the leading work for practitioners, Pierse, *Road Traffic* Law, 3rd edn., Vol. 1 (2004, Dublin) (at para. 3.96 and para. 8.34), driving without insurance in breach of s. 56 of the 1961 Act, is a scheduled 'penalty point offence' under s. 1(1) of the Road Traffic Act 2002, as amended ('the 2002 Act'), attracting five penalty points, although in reality the imposition of those five mandatory penalty points only arises where the court does not impose a consequential disqualification order on a first offence. Section 55(1) of the Road Traffic Act 2010 provides that s. 1(1) of the Probation of Offenders Act 1907 does not apply to penalty point offences.

17. In *Kennedy v Gibbons* [2014] IEHC 67, (Unreported, High Court (Hogan J), 20th February, 2014) the question before the court was, where the imposition of penalty points in respect of a traffic offence is mandatory by statute and where the accused does not dispute the offence, does a District Court judge have any jurisdiction to strike out proceedings in return for the accused making a donation to the court poor-box?

18. Hogan J answered that question in the following way:

> '16. The critical point here is that the Oireachtas has imposed a statutory scheme of mandatory penalties (*i.e*. the penalty points regime) following conviction for certain road traffic offences. In these circumstances it must be accepted that the Oireachtas has thereby supplanted the common law and in the process has greatly restricted the District Judge's sentencing options in respect of those offences.
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> 17. The decision of Ó Caoimh J. in *Director of Public Prosecutions v. Maughan*, High Court, 3 November 2003 is, perhaps, the closest case on point. In that case the District Judge accepted a donation to the poor box *in lieu* of convicting the accused of the offence of drunk driving. The facts were admittedly exceptional, in that the accused had suddenly been roused from his bed by a message informing him that his father was seriously ill in hospital. The accused was in the course of driving to the hospital in response to that urgent summons when he was arrested for drunk driving. It was later determined that his blood alcohol level exceeded the statutory maximum and the accused indicated that he would plead guilty to the offence.
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> 18. Ó Caoimh J. nevertheless held that the District Judge had acted ultra vires by taking this admittedly humane and perfectly understandable course:
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> > "... as he was obliged at the time to determine the case before him and to proceed in accordance with law to enter a conviction and impose a penalty as required by law. He was not entitled to strike out the charge, notwithstanding the circumstances outlined to him by the notice party's solicitor at the time. While these indicate that the notice party might not have driven but for the fact that he was required to visit his father in hospital, it is clear that such circumstances do not and cannot afford a defence to the offence as charged against the notice party…."
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> 19. The critical feature of the case is that s. 49(7) of the Road Traffic Act 1961 ("the 1961 Act") (as inserted by s. 10 of the Road Traffic Act 1994) expressly provide[s] that s. 1(1) of the Probation of Offenders Act 1907 [does not apply to an offence under that section]. It is at least implicit in the decision of Ó Caoimh J. that in view of this latter disapplication of the Probation of Offenders Act 1907 by virtue of s. 49(7) of the 1961 Act the District Court judge must of necessity proceed to conviction where the facts and the law so warranted. Putting matters another way, Ó Caoimh J. concluded that the terms of s. 49(7) of the 1961 Act necessarily excluded informal sanctions short of formal conviction, such as the acceptance of a donation to charity and the striking out of the charges.
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> 20. To my mind, the present case is indistinguishable in principle from *Maughan*. Just as in that case, the Oireachtas has here prescribed a mandatory penalty and sanction upon conviction, namely, the endorsement of four penalty points upon the offender's licence. As we have already noted, s. 55 of the Road Traffic Act 2010 also provides for the disapplication of the Probation of Offenders Act 1907 to speeding offences and other traffic offences.
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> 21. The cumulative effect of these statutory provisions is to override the District Court's power at common law to accept a donation to the poor box *in lieu* of proceeding to a formal conviction in the case of those road traffic offences which attract the application of penalty points on a mandatory basis.
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> 22. It is true that in [*Director of Public Prosecutions v Ryan* [2011] 3 IR 641] Kearns P. held that the District Judge in that case was entitled to accept a donation to the poor box following a plea of guilty in respect of the offence of sexual assault *in lieu* of a formal conviction for that offence. It is also true that the offence of sexual assault is inherently graver and more serious than the offence of speeding. The essential difference, however, between this case and *Maughan* on the one hand and *Ryan* on the other is that the Oireachtas has elected for policy reasons to provide for mandatory sanctions and penalties upon conviction in the case of certain categories of road traffic offences. No such mandatory penalties have been prescribed in the case of sexual assault (along with a significant majority of other offences coming before the District Court), so that in those circumstances the District Court's power at common law to accept a charitable donation from an accused *in lieu* of a formal conviction continue in principle to hold full sway.'

v. *the gravity or seriousness of driving a motor vehicle in a public place without insurance*

19. In *Hussein v. Minister for Justice* [2015] 3 I.R. 423 (at 432), the Supreme Court, *per* Hardiman J, made it quite clear that the Minister is entitled to treat the offence of driving with no insurance as a serious matter.

Analysis

20. In the statement grounding his application for judicial review, Mr Kareem adumbrates the following eight separate grounds of challenge to the Minister's refusal to grant him a certificate of naturalisation:

> (i) The decision is irrational under the test in *Meadows* as 'fundamentally at variance with reason and common sense', since it does not properly flow from the premises on which it is based, and its effects on Mr Kareem's rights are disproportionate to the legitimate objective of the State's sovereign entitlement to identify its own citizens.
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> (ii) Specifically, the decision is irrational under that test because the Minister failed to carry out an analysis of 'the actual facts' grounding the prosecution of Mr Kareem.
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> (iii) Further, the decision is irrational because it was based solely on the fact of that prosecution, although Mr Kareem was not convicted.
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> (iv) Still further, the decision is irrational because it took account of irrelevant considerations and failed to take account of relevant ones.
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> (v) Quite separately, the decision is invalid because the Minister was operating a fixed and inflexible policy of refusing any person charged with driving without insurance and did not take into account Mr Kareem's personal circumstances.
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> (vi) The Minister erred in law and failed to provide fair procedures by failing to put to Mr Kareem the conclusion that he had failed to establish his good character and by failing to seek to elicit some further explanation from Mr Kareem.
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> (vii) The decision is vitiated by a significant error of fact because there is a reference in the submission upon which the decision was based to an attached letter of explanation from Mr Kareem, whereas Mr Kareem was not asked to provide a letter of explanation, and to an attached Garda Report, about which Mr Kareem knows nothing.
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> (viii) In all of the circumstances, there was a breach of Mr Kareem's entitlement to natural and constitutional justice, fair procedures and equality of treatment, such that the impugned decision should be quashed not least because there is no right of appeal against it.

21. Before dealing with each of those grounds of argument directly, there are two specific issues I must record.

22. The first is this. It emerged only in the course of the hearing before me that Mr Kareem's legal representatives were unaware of the letter that the INIS received from the applicant on 3 December 2015. The Minister accepted some limited responsibility in that regard because it would appear that the replying affidavit to which it was exhibited was delivered to the town agents for Mr Kareem's solicitors, rather than to Mr Kareem's solicitors directly. That being so, it is not clear why the former did not forward it to the latter. Nor is it clear why Mr Kareem did not provide his legal representatives with the necessary instructions concerning his own correspondence with the Minister. The result is that these proceedings were launched on Mr Kareem's behalf in reliance on two mistaken propositions of fact: first, that there was no evidence before the Minister that Mr Kareem had actually driven a motor vehicle in a public place without insurance; and second, that the Minister had neither sought, nor been provided with, any information about the circumstances surrounding that alleged conduct. It follows that the greater part of the applicant's arguments were based on a misconception of fact.

23. The second of these issues is that, while counsel for the applicant adverted to the existence of some authority on the lack of any jurisdiction to strike out a prosecution charging a 'penalty point offence' on condition of a payment made to the court poor box where the facts of the offence are admitted, the case concerned (which I take to be *Kennedy v Gibbons*) was never cited and the applicant's argument proceeded on the basis that the authority concerned (whatever it might be) has no relevance to the present case, whether on the basis that driving without insurance is not a 'penalty point offence' or on some other unstated basis, I do not know. None of the relevant road traffic legislation was opened to the court. Thus, there was a regrettable failure in this case to apprise the court of both binding authority and applicable legislation.

24. Turning to the grounds of challenge advanced by the applicant, I propose to deal with each in turn.

25. The reason for the Minister's decision to refuse to grant the applicant a certificate of naturalisation was expressed to be his failure to satisfy the Minister that he is of good character because he had driven a motor vehicle in a public place without insurance and because, at the time of his application, he had done so recently. In reaching that decision, the Minister had before him the applicant's letter – received by the INIS on 3 December 2015 – and was, thus, aware of the applicant's claim that, at the time of the incident, his motor insurance had lapsed for only a few days and he was taking his child to school in inclement weather. The Minister was also aware that the applicant had paid €1,000 into the court poor box and that the applicant had expressed regret for his actions.

26. I am satisfied that the Minister's decision flows from the premises on which it is based. Driving without insurance is a serious matter and, by necessary implication in light of his appearance in the District Court on 25 June 2014, the applicant had done so quite recently when he submitted his application for naturalisation on 22 September 2014.

27. I reject the argument that the Minister's decision was irrational because of a failure to carry out an analysis of 'the actual facts' grounding the prosecution of the applicant. The Minister had the benefit of the Garda Report on the prosecution of the applicant and of the applicant's written explanation of the circumstances in which he elected to drive without insurance. The facts of this case bear no meaningful relationship to those that were before Mac Eochaidh J in *GKN v The Minister for Justice and Equality* [2014] IEHC 478 (Unreported, High Court, 22nd October, 2014). There, the applicant's solicitor had provided, at the Minister's request, further information in respect of a road traffic offence committed by the applicant almost four years prior to the submission of his application for naturalisation. That information, which Mac Eochaidh J described as exculpatory but which I would prefer to characterise as mitigatory, was not brought to the Minister's attention. Here, the applicant brought the information on which he was seeking to rely in mitigation of his conduct to the attention of the INIS and there is no evidence before the court to suggest, much less establish, that it was not considered by the Minister.

28. The other authority on which the applicant seeks to rely in advancing this argument is *GS v Garda Commissioner & Ors* [2017] 2

IR 540. The applicant there was a nursing student who was required to undergo Garda vetting to take up a practical placement as part of his studies. That vetting required him to disclose any previous convictions and details 'of all prosecutions, successful or not, pending or completed in the State or elsewhere.' The applicant had been charged on separate occasions with an offence of unlawful possession of drugs and one of criminal damage, but each had been struck out in the District Court. There was no suggestion in either case that the applicant had admitted the conduct concerned or that the basis for the order striking it out was that the applicant had made a nominated payment into the court poor box. The applicant did not disclose the fact of either prosecution before it was disclosed as part of the vetting process. In the context of his application for judicial review, he explained that the first charge had been struck out when the prosecuting guard acknowledged that someone else had given his name and that the second charge was based on the complaint of his girlfriend, who did not make a statement or attend court. McDermott J found that the inflexible vetting process operated by An Garda Síochána failed to place those strike out orders in their proper context, an exercise that could include reviewing the background and interviewing the subject, and thus failed the test of fairness and proportionately.

29. In this case, there is nothing to suggest that the strike out order concerning the applicant was not put in its proper context, since the applicant admitted the criminal conduct alleged against him. Nor is there anything to suggest that the Minister failed to have full and proper regard to the issues of mitigation that the applicant wished to raise concerning that conduct. Moreover, there is no right of the applicant at issue in this case capable of attracting the application of the principle of proportionality. Hence, there is no assistance to be gleaned from that case in deciding this one.

30. The applicant's complaint that the Minister's decision was based solely on the fact of his prosecution, despite the fact that he was not convicted, has already been shown to be misconceived. There is nothing to suggest that the Minister's decision was not based on the applicant's admission that he had driven a motor vehicle in a public place without insurance, shortly prior to his application for naturalisation.

31. On the evidence presented to this court, the District Court was not entitled to strike out the charge against the applicant on the basis of a payment into the court poor box but was obliged instead to proceed in accordance with law to enter a conviction and impose a penalty as required by law. That conclusion follows from the relevant provisions of the Road Traffic Acts, interpreted in light of the decisions of this court in *DPP v Maughan* [2013] IEHC 117 and *Kennedy v Gibbons*. To accept the District Court's error of law as the basis for the proposition that, in the absence of a formal conviction, it could not accord with fundamental reason and common sense to conclude that the applicant had failed to establish his good character would be to compound one error of law with another.

32. I make that observation for three reasons. First, good character falls to be established in accordance with conduct. While a person's criminal antecedents might evidence such conduct, they are not dispositive of it. As Lang J observed in *Hiri v Secretary of State for the Home Department* [2014] EWHC 254 (Admin) (at para. 35), in a passage approved by Mac Eochaidh J in *GKN* (at para. 16):

> 'The statutory test [of "good character" for the purposes of the British Nationality Act 1981] is not whether applicants have previous criminal convictions – it is much wider in scope than that. In principle, an applicant may be assessed as a person "of good character", for the purposes of the 1981 Act, even if he has a criminal conviction. Equally, he may not be assessed as a persons "of good character" even if he does not have a criminal conviction.'

33. Second, even if I am wrong about that, for the reason I have just given, it would fly in the face of binding authority and the applicable road traffic legislation, if I were to treat the applicant's admitted conduct as constituting anything less than a criminal offence warranting – though in this case, not resulting in – conviction and the imposition of a consequential disqualification from holding a driving licence for not less than one year in the absence of special reason or, at the very least, the mandatory imposition of five penalty points.

34. Third, the applicant's essential argument that, in order to be rational, the Ministers assessment of the applicant's character had to accord with the seriousness of the conduct at issue as reflected in the District Court's disposition of the charge concerned is one that cannot be reconciled with considerations of fairness and equality. That is because, as the Law Reform Commission stated in its *Report on the Court Poor Box: Probation of Offenders* (LRC 75-2005) (at para. 1.31):

> 'The Court Poor Box disposition is not applied by all judges in the State. It appears to be used regularly by some judges, infrequently by others and not at all by others. The result is that an extra sentencing option (with the likelihood of non-conviction) is available for some offenders and not for others depending entirely on geographical location and the particular preference of the judge.'

35. The applicant's prosecution occurred in 2014. I am satisfied that I am entitled to take judicial notice of publicly available figures released by the Court Service concerning court poor box payments across District Court districts. Those figures disclose that, in 2014, a total of €2,182,160.50 was paid into the court poor box across the 23 District Court districts and the Dublin Metropolitan District, of which €883,527 (representing just over 40% of the total) was paid into the court poor box in just one of them. That district is District 17, which covers the District Court areas of Cahirciveen, An Daingean, Kenmare, Killarney, Killorglin and Tralee. It is difficult to conclude that this striking anomaly was not known, or ought not to have been inquired into, by Mr Kareem and, more particularly, his legal representatives before advancing the arguments raised in the present application without, at least, disclosing its existence. But leaving that to one side, it is impossible to reconcile that evident anomaly with Mr Kareem's contention that a disposition of the kind at issue in this case reliably correlates with the gravity of admitted criminal conduct throughout the State.

36. For the reasons I have already given, I can find no basis to conclude that the Minister took account of any irrelevant consideration or failed to take account of any relevant one. Nor can I find any basis to conclude that the Minister was operating a fixed and inflexible policy of refusing a certificate of naturalisation to any person charged with driving without insurance that did not take account of the circumstances of that conduct or of that applicant's personal circumstances more generally. I reject, as unsupported by any authority, the proposition that the Minister had to put his conclusion concerning Mr Kareem's character to Mr Kareem and to elicit a further submission or explanation from him before reaching a decision on his application for naturalisation. I conclude that the Minister's decision is not vitiated by any error of fact or law – rather, all of the significant errors of fact and law in this case appear to have been made by, or on behalf of, Mr Kareem. Finally, I conclude that Mr Kareem has failed to establish any breach of his entitlement to natural and constitutional justice, fair procedures or equality of treatment.

37. I cannot conclude without noting that Mr Kareem has always had, and still has, available to him an alternative to these costly and, as I have found, misconceived proceedings. In the letter of 30 January 2017, in which the Minister refused Mr Kareem's application for a certificate of naturalisation, he was expressly informed of his entitlement to reapply for naturalisation at any time.

Conclusion

38. For the reasons I have given, the application is refused. Further, I require the parties and, in particular, the legal representatives for the applicant to address the court on the extent to which these proceedings are captured by the principles identified by Cooke J. in *O.J. v Refugee Applications Commissioner* [2010] 3 IR 637 and, more particularly, on whether this is an appropriate case in which to make a wasted costs order under O. 99, r. 7 of the Rules of the Superior Courts.