



VIII Annual Caribbean Court of Justice International Law Moot (2016)

Asim v Attorney General of Grenada; Baadir v Attorney General of Grenada; Chahid v Attorney General of Grenada

Asim, Baadir, and Chahid, are three Muslims who arrive on the same flight at the Maurice Bishop International Airport in Grenada but are refused entry on the order of the minister responsible for immigration on the ground that they are prohibited aliens. When asked by the Immigration Officer if he supported ISIS, Asim replied, “Of course not: they are murderers”, Baadir replied “How could I, having just returned from Syria?”, while Chahid replied, “How dare you insult me, a Salafist Imam, by asking me that question! I am not answering such an unworthy question.”

Asim is a Trinidadian, who was actively involved in the attempted coup in 1990 and was arrested and jailed at the time. He was released in 1991, and has had no further contacts with the police, except for an assault against a family member 10 years ago, for which he received a custodial sentence of two months. The minister had received information from a “Foreign Secret Service” that Asim was an Islamic State sympathiser, given some remarks on his Facebook account, which the Foreign Secret Service did not disclose. Asim refused to allow the Immigration Officer access to his Facebook page when asked, insisting on its confidentiality. Since then he has made it available and no remarks sympathetic to an Islamic State have been discovered.

Baadir is a businessman and a naturalised Trinidadian who arrived in Trinidad from Syria some 15 years ago. He recently visited Syria for 4 weeks to visit family and friends, according to entry documents he had filled in.

Chahid is a Guyanese national and a Salafist Imam, on whom no further data is available.

The three individuals were notified that they were refused entry “for reasons of national security” and that the minister had ordered their deportation under s. 26 of the Immigration Act. No further explanation was given, and they were not allowed to contact a lawyer.

Back in their respective countries of residence (Trinidad and Guyana) they consulted an attorney, who filed a case for damages in the High Court in Grenada.

In their statement of claim, the three men invoke their right of free movement (enshrined in the 2007 Conference Decision as interpreted in *Myrie v Barbados*) and argue that they were refused entry on insufficient grounds. They further submit, with reference to *Myrie*, that the minister acted illegally towards them by not allowing them to consult an attorney and not granting them access to the judicial system in Grenada.

In its written submissions, the Government of Grenada states that the deportation orders of the minister were based on a) the background facts on each of the men detailed above, and b) the fact that, according to immigration officers at the airport, the three men were seen conversing with each other in an animated manner while waiting in line to proceed to the immigration booth, and c) that they were all intending to stay at the hotel that was closest to the St. George's Medical School attended by hundreds of American medical students. There was no point in granting access to a lawyer since under s. 35 no appeal lies against an order made by the minister under s. 26.

The three men, in their submissions in response, claim that they did not know each other before arriving in Grenada and only got acquainted on the flight. Being Muslims, they naturally engaged in social conversation and, as British Premier League soccer followers, but supporting different teams, they became animated discussing their teams' merits. They also maintain that given their status as CARICOM nationals, s. 35 must does not apply in relation to them.

The Grenada High Court referred the following two questions to the CCJ:

1. Whether, upon a proper interpretation of the 2007 Conference Decision, Grenada could reasonably infer from the facts of this case that the three CARICOM individuals concerned, either individually or as a group, presented the kind of security threat that would justify their being prohibited from entering the country?
2. Whether it is lawful, notwithstanding the 2007 Conference Decision, to prescribe in national legislation (ss. 2 (1), 4, 19, 35 of the Immigration Act) that, in the case of deportations, deportees including CARICOM nationals, cannot access the Magistrate's Court to appeal against the deportation order?

Senior counsel for the three claimants will argue question 1; whilst junior counsel will argue question 2.

Senior counsel for the Government of Grenada will argue question 1; whilst junior counsel will argue question 2.

