JUDICIARY OF ENGLAND AND WALES

R oao Louisa Hodkin v Registrar General of Births, Deaths and Marriages

High Court (Administrative Court)

19 December 2012

SUMMARY TO ASSIST THE MEDIA

The High Court (Mr Justice Ouseley) has today dismissed a challenge by Louisa Hodkin against the Registrar General of Births, Deaths and Marriages in England and Wales's decision not to register a chapel of the Church of Scientology as 'a place of meeting for religious worship' which in turn means it is not a registered building for the solemnisation of marriages.

Introduction

The nature of the claim is set out in paragraphs 1 – 5. In essence:

"Louisa Hodkin is a 23 year old Scientologist who wishes to marry her fiancé, also a Scientologist, at the London Church Chapel, a chapel of the Church of Scientology, in Queen Victoria Street, London. They are both volunteers there. She is the first Claimant. But the chapel is not registered under s2 of the Places of Worship Registration Act 1855 as a "place of meeting for religious worship". It is therefore not a registered building within s 26 of the Marriage Act 1949 and, unless registered under the 1855 Act, no application can be made under the 1949 Act for it to be registered for the solemnisation of marriages. S26 of the Marriage Act 1949 contains no prescription as to the form of service required for a marriage ceremony in a registered place of worship, registered for the solemnisation of marriages." (para 1)

The statutory provisions

The relevant statutory provisions are set out in paragraphs 6 – 9.

The case law – the decision in *Segerdal*

The Court analyses in detail the Court of Appeal decision in *Segerdal,* which the defendant argued is still valid and binding on the Court, in paragraphs 10 – 33.

Segerdal concerned the registration of another Scientology chapel and ruled, in 1970, that it was not a meeting place for religious worship because its services were instructions in the tenets of a philosophy concerned with man and were not concerned with religious worship. (paras 19 – 22)

After examining the ratio of *Segerdal*, Mr Justice Ouseley concludes:

"Accordingly, in my judgment, *Segerdal* holds that a place for religious worship can cover a place for non-theistic religious worship. It does not decide whether Scientology is a religion or not; that issue is left open, though the Court's doubts are clear. But, religion or no, it decides that Scientology services did not involve acts of worship. The Registrar General did not misunderstand this decision. She applied it. She did not refuse to register the chapel because Scientology if a religion, was not a theistic religion. She refused to register it and submitted that I was bound by *Segerdal* to uphold that refusal because, religion or not, theistic or otherwise, Scientologists did not "worship"." (para 33)

Is *Segerdal* binding on 'worship' by Scientologists?

The claimant submits the *Segerdal* is no longer binding; that Scientology beliefs and services have evolved since *Sergerdal*.

Mr Justice Ouseley said:

"…In my view it is, in principle. A conclusion that it is a religion does not require a conclusion which contradicts any binding decision of the Court of Appeal." (para 39)

He went on to say:

"However, the Court of Appeal must be taken to have reached its conclusion on "worship" on the basis that it did not matter whether Scientology was a religion or not; its services were not "worship". Therefore, in practice, it could make no difference to its decision, all of its doubts notwithstanding, if Scientology were found to be a religion, unless a substantial change in worship since 1967 was also found to have occurred. Such a change might show also that Scientology is a religion, given the intermingling of the issues, and that conclusion would not be precluded by the decision of the Court of Appeal since it made no finding on that issue. But it is on the question of a substantial change in "worship" that the Registrar General was right to focus." (para 41)

The evidence of change since 1967

The Court sets out a brief summary of Scientologist beliefs in paragraphs 42 – 50.

Mr Justice Ouseley said:

"I accept that other jurisdictions hold that Scientology is for various purposes a religion, non-theistic or theistic. …

"On what I have read in this case, I would conclude that Scientology was a religion for the purposes of the 1855 Act. Notwithstanding the references to God, I do find it difficult to see it as a theistic religion. Once seen as a non-theistic religion however, and with the purpose of the 1855 Act in mind, a broad view should be taken of what constitutes a religion." (paras 51 – 52)

The Court then considers the evidence of worship in paragraphs 53 – 66.

On this point Mr Justice Ouseley concludes:

"In my judgment, there has been no significant change in the beliefs of Scientologists or in their services since the decision in *Segerdal*. Although the Claimants suggest there has been an evolution in the beliefs of Scientologists, at least up to the death of L Ron Hubbard in 1986, I have not seen any

indication as to what that might be or how it could bear on any issue as to the nature of Scientology or the significance of its practices. It may be that there is more reference to God in their services, but there is no evidence of any development in its thinking about the nature of the Scientologist God or Supreme Being, or its relationship to Scientologists. They do not now believe in a God or Supreme Being in a way which is different from what they believed in the 1960s and 1970s." **(para 67)**

He goes on to say:

"What has changed is the way in which Scientology describes itself, with a greater emphasis on its being a religion … but that is a matter of language and not of substance." (para 68)

Other submissions as to why *Sergerdal* was not binding

The Court considers other submissions made by the claimant in paragraphs 76 – 101 but rejects these.

Mr Justice Ouseley concludes:

"I regard the definition of "worship" in *Segerdal* as being problematic. Not merely is it difficult to separate the concept of "worship" from the tenets of the religion, but the definition seems inapt to cover the non-theistic religions which the Court accepted are religions and which must be taken to "worship" for the purposes of the 1855 Act. Their "worship" is closer to a definition of worship as ceremonies, acts or prayers of a formal nature revering a power or principle regarded as supernatural or divine.

"It may be that now a different approach to "religious worship" from that in *Segerdal* would and should be adopted. …. However, the decision of the Court of Appeal in that respect binds me." (paras 83 – 84)

He goes on to say:

"…It is important that the Act is not interpreted in a way which gives a traditional religion greater legitimacy than a new one, or which requires a traditional form of worship, when the purpose of the Act can be met without such restrictions, and in a way which reflects the variety of religious beliefs now practised in England and Wales. Nonetheless the *Segerdal* definition of "worship" binds me." (para 85)Conclusion:

Concluding his judgment, Mr Justice Ouseley said:

"Accordingly, I do not feel that I can hold that *Segerdal* is not binding on me. This claim must therefore be dismissed. Forty years on from *Segerdal*, the Court of Appeal may find the route at least to reconsider its decision in *Segerdal*, with the fuller material now available." (para 102)

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This summary is provided to assist in understanding the Court's decision. It does not form part of the reasons for the decision. The full judgment of the Court is the only authoritative document.