IN THE CAYMAN ISLANDS COURT OF APPEAL

Civil Appeal No. 2 of 1999
Grand Court Cause No. 633 of 1998

BETWEEN:

THE IMMIGRATION BOARD
THE GOVERNOR IN COUNCIL OF THE CAYMAN ISLANDS

Respondents/Appellants

- and -

PAUL STEPHEN STREETER
K. COAST DEVELOPMENT

Applicants/Respondents

BEFORE: The Rt. Honourable Mr. Justice Edward Zacca, President
The Rt. Honourable Mr. Justice Telford Georges, Justice of Appeal
The Honourable Mr. Justice Ira Rowe, Justice of Appeal

The Solicitor General Mr. Samuel Bulgin, Ms. Jacqueline Wilson and Mr. Arden Warner for the Appellants.

Mr. Ramon Alberga, Q.C. and Mr. Stephen Hellman instructed by Mssrs. Quin & Hampson for the Respondents.

August 12th, 13th, 18th, 19th 1999; December 10th, 1999

JUDGMENT

ZACCA, P.

This is an appeal from the decision of the Grand Court granting an order for Certiorari quashing the decision of the Immigration Board. The application for judicial review arose as a result of the Immigration Board revoking the work permit of the respondent Paul Streeter.

Whilst in England, he met his wife who was at university in England. They were married in March 1995. Mrs Streeter was born in the Cayman Islands. Her parents have lived in the Cayman Islands for over 30 years and have Caymanian status as of right. Mrs. Streeter had been away from the Cayman Islands for some 13 years in school. She however regarded Cayman as her home and always intended to return there to live.

On their return to live in the Cayman Islands, Mr. Streeter obtained a job with McAlpine Limited, a construction company, where he worked for several months until he resigned in 1996. Following his resignation investigations led to three charges of theft from McAlpine being laid against him for offences committed in or about September 1995.

On the 10th December 1997 he pleaded guilty to two of the charges. The Grand Court Judge sentenced him to six (6) months imprisonment on each count, to run concurrently and suspended the terms of imprisonment for one year. A fine of $1000.00 was also imposed on each count and he was ordered to pay compensation in the sum of $3,140.00 to McAlpine and costs of $600.00. The money was paid. No application was made by the Crown for the Court to recommend his deportation and no such order was made. Mr. Streeter gained employment with the second respondent from June 1996. His new employers were aware of the charges which were then pending and of the circumstances surrounding them.

The Immigration Board was notified of Mr. Streeter's conviction and sentence and by letter dated 5th February 1998, informed him that his work permit issued to K. Coast Development had been revoked. No opportunity was given to him to make any representations. No doubt a breach of the rules of natural justice. However, on

representations being made by Mr. Streeter's Attorney, the Board agreed to reconsider the matter. Representations were then made in writing and by his Attorney during a meeting with members of the Board. By letter dated 3rd March 1998, the Board informed Mr. Streeter that the revocation of his work permit had been confirmed. By letter dated 27th March 1998 an appeal was lodged with the Governor in Council and by letter dated 24th September 1998 the appeal was rejected. The application for Judicial Review of the Board's Order then came before the grand Court on the grounds that the Board had acted irrationally and illegally.

At the hearing before the Grand Court Judge, ten grounds were advanced by Mr. Alberga for the respondent. The Chief Justice in his reasons for his decision condensed those grounds into seven. He accepted those arguments and held that the Board had in coming to their decision acted irrationally and illegally.

Before this Court Mr. Bulgin for the appellant argued that the Chief Justice was in error in holding that the decision of the Board was irrational and illegal. Mr. Alberga for the respondents sought to uphold the seven grounds found in favour of the respondent by the Chief Justice.

It is necessary to set out the seven arguments, which were accepted by the Court –

(1) The Board failed properly to take into account the interests of Mrs. Streeter as required by section 30 (1)(h) of the Immigration Law.

(2) The Board wrongly approached the matter on the basis that Mr. Streeter fell into the category of a "convicted and deportable" person.

(3) In their consideration of section 30 (1)(k) of the law, the Board wrongly approached the matter on the basis that Mr. Streeter was an habitual criminal

and someone from whom Caymanian society needed to be protected despite the sentence already meted out by the Grand Court. That the Board regarded the sentence as inappropriate and by their decision to revoke the work permit, improperly sought to censure the decision of the Grand Court and further to punish Mr. Streeter.

(4) The Board wrongly considered that Caymanians who are convicted are deprived of any further opportunity for re-employment and are never re-employed and that Mr. Streeter as a non-Caymanian should not be in the advantageous position of being employed if offered employment.

(5) The Board disregarded the representations made to them by Mr. Streeter's references and did not take into account his previous good character and potential for rehabilitation.

(6) The Board failed to consider the interests of K. Coast, a local Caymanian owned company.

(7) The Board's policy in denying work permits to convicted persons being strictly and consistently followed did not exist.

If it be found that the Board's decision is irrational or illegal then it is open to the Court to intervene and the decision is reviewable by the Courts ***Smith v Commissioner of Police*** (1980-83) C.I.L.R. 126.

The test of irrationality was defined in ***Associated Provincial Picture House Limited*** v ***Wednesbury Corporation*** (1948) 1 K.B. 223. Lord Greene M.R. at page 229 stated:-

" It is true the discretion must be exercised reasonably. Now what does that mean? Lawyers familiar with the phraseology commonly used in relation to exercise of statutory discretion often use the word "unreasonable" in a rather comprehensive sense. It has frequently been used and is frequently used as a general description of the things that must not be done. For instance, a person entrusted with a discretion must, so to speak, direct himself properly in law. He must call his own attention to the matters which he is bound to consider. He must exclude from his consideration matters which are irrelevant to what he is to consider. If he does not obey those rules, he may truly be said, and often is said, to be acting "unreasonably". Similarly there may be something so absurd that no sensible person could ever dream that it lay within the powers of the authority. Warrington L.J. in Short v Poole Corporation gave the example of the red haired teacher, dismissed because she had red hair. That is unreasonable in one sense. In another sense it is taking into consideration extraneous matters. It is so unreasonable that it might almost be described as being done in bad faith".

In summarising the applicable principle Lord Greene at page 233 stated:

"The court is entitled to investigate the action of the local authority with a view to seeing whether they have taken into account matters which they ought not to take into account, or conversely, have

> refused to take into account or neglected to take into account matters which they ought to take into account.
>
> Once that question is answered in favour of the local authority, it may be still possible to say that, although the local authority have kept within the four corners of the matters which they ought to consider, they have nevertheless come to a conclusion so unreasonable that no reasonable authority could ever have come to it. In such a case, again, I think the court can interfere. The power of the court to interfere in each case is not as an appellate authority to override a decision of the local authority, but as a judicial authority which is concerned, and concerned only, to see whether the local authority have contravened the law by acting in excess of the powers which Parliament has confided in them".

In a reference to the Wednesbury case, Lord Diplock in ***Council of Civil Services Union v Minister for the Civil Service*** [1985] 1 A.C. 374, at page 410 stated :-

> " By "irrationality" I mean what can by now be succinctly referred to as "Wednesbury unreasonableness". It applies to a decision which is so outrageous in its defiance of logic or of accepted moral standard that no sensible person who had applied his mind to the question to be decided could have arrived at it. Whether a decision

> falls within this category is a question that judges by their training and experience should be well equipped to answer, or else there would be something badly wrong with our judicial system. To justify the courts exercise of this role, resort I think is today no longer needed to Viscount Radcliffe's ingenious explanation in Edwards v Bairstow [1956] A.C. 14 of irrationality as a ground for a court's reversal of a decision by ascribing to it an inferred though unidentifiable mistake of law by the decision-maker. "Irrationality" by now can stand upon its own feet as an accepted ground on which a decision may be attacked by judicial review".

In Judicial Review of Administrative Action by Smith, Woolf and Jowell, 5th Edition at page 295, the authors define illegality in this way:

> " An administrative decision is flawed if it is illegal. A decision is illegal if:
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> (1) it contravenes or exceeds the terms of the power which authorises the making of the decision;
>
> or
>
> (2) it pursues an objective other than that for which the power to make the decision was conferred."

In ***Regina v Secretary of State for the Home Department, ex parte Brind and others*** (1991) 1 A.C. 696, Lord Ackner at pp. 757-758 stated:

" There remains however the potential criticism under the Wednesbury grounds expressed by Lord Greene M.R. (1948) 1. K.B. 223, 230 that the conclusion was "so unreasonable that no reasonable authority could ever have come to it". This standard of unreasonableness, often referred to as the "irrationality test", has been criticised as being too high. But it has to be expressed in terms that confine the jurisdiction exercised by the judiciary to a supervisory, as opposed to an appellate jurisdiction. Where Parliament has given to a minister or other person or body a discretion, the Court's jurisdiction is limited, in the absence of a statutory right of appeal, to the supervision of the exercise of that discretionary power, so as to ensure that it has been exercised lawfully. It would be a wrongful usurpation of power by the Judiciary to substitute its, the judicial view, on the merits and on that basis to quash the decision. If no reasonable minister properly directing himself would have reached the impugned decision, the minister has exceeded his powers and thus acted unlawfully and the Court in the exercise of it supervisory role will quash that decision. Such a decision is correctly though unattractively described as a "perverse" decision. To seek the Court's intervention on the basis that the correct or objectively reasonable decision is other than the decision which the Minister has made is to invite the Court to adjudicate as if Parliament had provided a

> right of appeal against the decision – that is to invite an abuse of power by the judiciary."

In ***Isaac v Minister of Consumer Affairs*** (1991) L.R.C. 777, Tipping J. stated at page 812:

> " In most circumstances it is trite to say that the question of weight as between competing considerations is entirely for the decision maker and not for the Court on review. I accept that there could be instances where the weight of considerations one way is so much stronger than the weight of considerations the other way as to lead to the conclusion that the decision-maker has acted unreasonably. "This is demonstrated in the joint judgment of Mason, Gibbs and Dawson J.J. comprising the majority of the High Court of Australia in Minister for Aboriginal Affairs v Peko-Wallsend Ltd. (1986) 66 ALR 299. Their Honours said at pages 309-310:
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> "It follows that, in the absence of any statutory indication of the weight to be given to various considerations, it was generally for the decision-maker and not the court to determine the appropriate weight to be given to the matters which are required to be taken into account in exercising the statutory power."

In considering whether or not to grant a work permit, the Board is obliged to take into account the provisions of section 30 of the Immigration Law and any general directions issued by the Governor.

The provisions of section 30 are as follows:-

30 (1) The Board in considering any application under section 29, shall, subject to any general directions which the Governor may, from time to time, give in respect of the consideration of such application take particularly into account.

(a) the character, reputation and health of the person whose gainful employment is sought to be authorised (hereafter in this section referred to as "the worker") and, where relevant, of any member of his household;

(b) the professional or technical qualifications of the worker;

(c) the availability of the services of persons already resident in the Islands;

(d) the protection of local interests and in particular those of persons of Caymanian status;

(e) the economic and social benefit which the worker may bring to the Islands or enhance by his presence;

(f) the sufficiency of the resources or proposed salary of the worker and his ability adequately to maintain his dependants;

(g) as to whether the worker has a sufficient knowledge of the English language;

(h) the hardship that may be caused to the spouse and dependents of the worker;

(i) the location, type, adequacy and suitability of the accommodation available for the worker and his dependents, if any, throughout the term of the work permit sought;

(j) in the case of professional, managerial or skilled operations, whether the prospective employer has established an adequate training programme to ensure that a Caymanian is being trained to fill the position; and

(k) generally, the requirements of the community as a whole, and such other matters as may arise from the application.

In arriving at its decision the Board particularly took into account the provisions of section 30 (1), (a), (h) and (k). It would also have been mindful of paragraph 9(f) of the Immigration Directions (1996 Revision):

"9. Grounds for refusing renewal or grant of work permits include-

(f) that the applicant has been convicted of a crime, excluding offences which the Board is satisfied are minor".

It may be convenient to deal with the arguments in the manner in which the Chief Justice set them out in his judgment.

(1) The Board failed properly to take into account the hardship to Mrs. Streeter as required by section 30 (1) (h) of the Law.

The Board had before it letters from Mrs. Streeter in which she made representations as to the hardship which would occur to her if her husband was denied a work permit. Also before the Board was a letter from Quin and Hampson the respondents' attorneys, in which the hardship to Mrs. Streeter was emphasised. The Board also received Mr. and Mrs. Streeter, Mr. Giles Langlois and Mr. Graham Hampson, the respondent's attorney. They were allowed to make oral submissions prior to the reconsideration of the revocation of the work permit.

In arriving at its decision in relation to hardship to Mrs. Streeter, the Board in its reasons stated:

(1) "The Board when making their decision considered all the facts before them and took into consideration :-the fact that the applicant was married to a person who was deemed to possess Caymanian status".

(2) The Board was of the opinion that a person married to a Caymanian status holder does not under any circumstances constitute or place one above the law.

(3) In the matter relating to the subjects "strong Caymanian connections", the Board noted the following :-"It is further alleged that the Board should have considered sections 30 (1) (h) (k) of the law relating to hardship and the requirements of the community, as a whole. It is the Board's view that the hardship created was ' self inflicted' and is therefore not a consideration for the Board"

(4) Whilst it is repeatedly relied on by the subjects' attorney that the subject's spouse is Caymanian who will have to face the difficult option of moving away or live without the financial support from her spouse, the Immigration Board considered the following:-

(a) the hardship of moving away is not as extreme as stated in that, the Caymanian spouse holds 3 passports and was in fact living abroad for many years where she met and married the subject.

(b) Whilst the couple may want to live here, there are other options available to them. The subject should have been concerned about these matters when considering whether or not to steal.

(c) The Board has consistently revoked work permits of persons who break the law, whether or not the person is married to a Caymanian. The law affords no special privileges to persons married to Caymanians and it is therefore not a consideration".

It is true that the Immigration Directions (1996) Revision provides in direction 5(1):

"Persons married to Caymanians shall be given preferential treatment in obtaining work permits".

This direction must however be considered in the circumstances of the present case. There is nothing to suggest that the Board was not aware of this direction.

Mr. Alberga as did the Chief Justice laid great emphasis on the Board's use of the words "self inflicted". It is being suggested that the Board was holding that it was Mrs. Streeter who created the hardship. This is not a reasonable interpretation. Surely what the Board was implying was that it was Mr. Streeter's action which brought about this situation and that it was he who created the hardship for Mrs. Streeter. In this sense it was "self inflicted".

In her affidavit, Lorna Hampson, an Attorney-at-Law, and Chairman of the Immigration Board, at paragraph 8, stated:-

> 8. " On or around the 24th day of February, 1998, the Board considered all the representations that were made on behalf of Mr. Streeter including the representations that Mr. Streeter was the spouse of a Caymanian and the implications that the revocation of his work permit would have on his family life and his ability to earn a livelihood. The Board took into account the fact that Mrs. Streeter had been living abroad approximately thirteen years when she met and married her husband and information that she was the holder of three passports."

The reference to Mrs. Streeter having lived in England for some thirteen years and the fact that she held three passports, including a British Passport, and the fact that the respondent was a British citizen, indicated that they would both be able to be employed in

other countries. It is not a case where the respondent and Mrs. Streeter would not be allowed to work, e.g. in Britain.

It cannot be said that the Board did not take into account all the representations made to it with respect to the hardship which would occur to Mrs. Streeter. The Board did not regard "hardship" to Mrs. Streeter as a sufficient reason for not revoking the work permit of Mr. Streeter.

In the circumstances of this case I am of the opinion that the Chief Justice was in error in holding that the Board acted irrationally in so far as it related to section 30(1)(h) of the Law.

(2) The Board's reference to the respondent as a "convicted and deportable person".

The Chief Justice held that the Board fell into error in regarding Mr. Streeter as a "convicted and deportable person" and therefore the Board's decision was tainted by illegality.

The offence for which the respondent was convicted is one for which a Deportation Order could be sought. In this case the prosecution did not seek such an order nor did the Court make such an order. By using the words "convicted and deportable", the Board could not have been of the view that a Deportation Order had been made by the Court. Clearly the Board would have been aware of this. He was however, a person for whom a Deportation Order could have been made.

Can it be said that the Board's decision was based on a view that the respondent was a "convicted and deportable person". It is necessary to look at the reasons of the Board:-

"The Board is of the opinion that people living and working in the Cayman Islands should conduct themselves with decorum and abide by the laws of the country. ..."

" On the matter of the requirements of the community, the Board is of the view that a dangerous precedent would be set in allowing the subject's offences to be exonerated whilst many others have had to pay the price...

The Law requires the Board to consider the character and conduct of persons and application forms require the declaration of previous offences of work permit applicants in order to ensure only persons of good character are allowed to work and live here...

The Immigration Board was further of the view that to allow a convicted and "deportable person" to continue to work in the Islands sets a dangerous precedent and is not consistent with previous decisions of the Immigration Board. In fact the Board does not allow work permits to be issued at all to persons with convictions and even where convictions have been spent, some of even less seriousness, The Board takes the view that the Islands can well afford to attract persons of the highest calibre and will generally refuse such application.

To take a more relaxed view now would only threaten the 'crime free' status we currently still enjoy".

" The Board after a long deliberation, and in accordance with section 30(1)(a) of the Immigration Law 1997 (R) considered the offence serious enough to revoke the work permit".

Paragraph 9 of the Immigration Direction (1996 Revision) sets out the grounds on which a work permit can be granted or refused.

9(f) " That the applicant has been convicted of a crime, excluding offences which the Board is satisfied are minor".

In her affidavit the Chairman of the Immigration Boards at paragraph 9 stated:-

"The Board also considered that Mr. Streeter had been convicted of a serious offence which went to character and that it was the policy of the Board to refuse to grant work permit to persons who had been convicted of an offence which the Board considered to be serious. This policy is embodied in paragraph 9 (f) of the Immigration Directions (1996 Revision) issued by the Governor in Council and is applied in appropriate cases whether or not the convicted person is married to a Caymanian. An examination of the files and records of the Board records that during the period June 1996, to October, 1997, the Board revoked the work permits of at least thirteen persons who had been convicted of criminal offence which the Board considered to be serious.

In addition, the application form for a work permit requires the declaration of previous convictions in order to assist the Board in

> ensuring that work permits are granted only to persons of good character".

The reasons for the decision of the Board clearly indicate that it did not proceed on the basis of a statutory definition of the term "convicted and deportable", but on an analysis of the offences committed by the respondent Streeter and the impact on the policy of the Board in granting work permits taking into consideration the broad interests of the country. This the Board was entitled to do within its mandate under section 30(1)(a) of the Immigration Law 1997, and section 9(f) of the Immigration Directions (1996) Revised. The decision in this respect was therefore not tainted with illegality. The Chief Justice therefore fell into error.

(3) The Board's disapproval of the sentence of the Grand Court.

The Chief Justice held that it was unacceptable that the Board's decision on the respondent's work permit should be predicated in any way upon the Board's disapproval of the measure of the punishment meted out by the Court. The Board therefore acted irrationally. Reference is made to the Board's reasons as follows:-

> " The Board took into consideration that the judge had noted ... "a one off incident"...
>
> The Board was of the opinion that a person being married to a Caymanian Status Holder, does not under any circumstances constitute or place one above the law. It found no exceptional circumstances for allowing Mr. Streeter to be singled out and 'slapped on the wrist' after committing such a blatant act. ... He began to steal within one month of the issue of his work permit. ...

> He systematically stole from his employers and this was therefore not a "one off" event as stated. (How do you steal 12 loads of marl amongst other goods, in a "one off?) … a dangerous precedent would be set in allowing the subject's offences to be exonerated whilst many others have had to pay the price. Is this "casual" approach to crime something that we would want to adopt? … [the Board concluded] that the applicant should not now be rewarded for his crime by now granting him the privilege to work again in these islands".

The Board in its reasons also stated:-

> "The Immigration Board did not accept the "played down" version of events as presented by the subject's Attorney and considered charges of theft as serious offences."

There is no doubt that the Board had quite separate and distinct functions from that of the Grand Court. Section 9(f) of the Immigration Directions authorises the Board to make its own determination as to whether a crime was of a minor nature. The Board therefore had to look not only at the conviction, but at the facts of each case, to determine its character and seriousness. It was entitled to reject what it termed to be a "played down version" as presented by the respondent before them or what on a statement of the facts could not in any rational way be described as a "one off" incident.

It was not necessary nor is it desirable that the Board should comment upon the sentence of the Grand Court from which the Crown did not appeal. However in this case the respondents were relying heavily on the treatment which Mr. Streeter received from

the Grand Court and it was in that context that the Board expressed its opinion that on the facts there were serious offences of dishonesty. The Board based its decision on the fact of the conviction for offences which it considered serious. The Board did not therefore act irrationally.

(4) The Board wrongly considered that Caymanians who are convicted are deprived of any further opportunity for re-employment.

The Chairman of the Immigration Board in paragraph 10 states:-

> "The Board also considered the fact that Caymanians are refused employment on the ground of a criminal conviction and that if the Board were to grant work permits to non-Caymanians who had been convicted of serious offences, such persons may well be put in a more favourable position than Caymanians in similar circumstances.
>
> The Board considered the requirements of the community and was of the view that a bad precedent would be set and the "crime free", caring, Christian, Community status of the Cayman Islands would be tarnished if the Board took a casual or relaxed approach towards crime in deciding whether to revoke the work permits of persons convicted of serious offences."

The Chief Justice rejected this statement as a bald statement of fact and regarded it merely as the Board's impression or opinion. He substituted his own personal knowledge.

Mr. Bulgin submitted that the Board was in a uniquely well placed position to have knowledge of the fact stated in paragraph 10 of the Chairman's affidavit. He cites the composition of the Board as a factor.

There was no evidence to challenge the assertion and in our view it was not open to the Chief Justice to prefer his own views over those of the Board. This argument does not assist the respondent. There was therefore no irrationality on the part of the Board.

(5) Representations to the Board with reference to the respondent's character.

The Board had before it all the references as to character. Oral and written representations were also made to the Board. The Board therefore considered all the representations made on behalf of the respondent.

The Chairman of the Board in her affidavit at paragraph 6 stated:-

> "On or around the 11th day of February, 1998, the Board received letters from Mr. Streeter's former employer, Paula Langlois, and other persons pertaining to the revocation of Mr. Streeter's work permit. On the 12th day of February, 1998, Mr. Streeter, his wife, his Attorney, Graham Hampson and his former employer, Giles Langlois, had a meeting at the Immigration Department with the deputy Chairman of the Board and myself. At the meeting Mr. Langlois and Mr. Hampson made representations on behalf of Mr. Streeter and asked the Board to reconsider its decision to revoke Mr. Streeter's work permit."

The Board in its reasons stated:-

> "References provided were either from employees of K. Coast, who had only come to know him after the events (in which time, naturally he would be on good behaviour) or from persons who better knew the subject's mother-in-law rather than the subject himself. (There were status holders, all of whom were originally from Great Britain). In all cases, none of the references had known the subject for any long period of time. The Board did not view the references as strong and was not comfortable in placing much reliance on them. No one could attest to his prior good behaviour and a similar incident could very well arise again."

The Board had a discretion whether or not to rely on the references and it cannot be said that they wrongly exercised their discretion. It is not for the Court to substitute its own discretion. The matter of weight is for the Board. We are unable to say, as the Chief Justice did, that the Board's reason for rejecting the references was unreasonable.

(6) Interests of K. Coast Development.

Section 30(1)(d) speaks of the protection of local interests and in particular those persons of Caymanian status. This is a matter to be considered when the Board is considering the grant of a work permit.

In reference to section 30(1)(d), the Board in its reasons stated:-

> "The subject's Attorney alleged that the Board should have put its mind to sec. 30(1)(d) of the Law in considering the revocation. The Board has always interpreted the section as to protect Caymanians from foreign nationals displacing them in their jobs when

> considering the grant of a work permit. The subject is not Caymanian and the section is therefore of no reference to the matter."

Written representations were made by K. Coast Development to the Board and were duly considered by the Board. Mr. Langlois of K. Coast Development also met with the Board on February 12, 1998 and made oral representations. Whether or not the interpretation placed on the section by the Board was incorrect, it cannot be said that the interests of the second respondent were not considered. There is no evidence that Mr. Streeter could not be replaced. The Chief Justice was therefore in error in holding that the Board committed an error of law in not considering the interests of the second respondent.

7) There is a discretion in the Board to revoke a work permit on the conviction of a serious offence.

The Board gave full consideration to all the representations made on behalf of the first respondent and exercised its discretion in revoking the work permit. The Board stated that paragraph 9(f) is applied in appropriate cases. We are unable to say that the Board wrongly exercised its discretion.

Whilst it may be said that the Board used inappropriate words at times in its reasons for its decision, it cannot be said that the Board did not take into account all relevant matters and representations made to it.

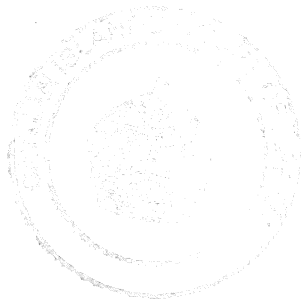
The jurisdiction of the Grand Court is a supervisory one and not an appellate jurisdiction. It is not for the court to substitute its judicial view on the merits.

The weight as to competing considerations is entirely for the Board and not for the Court on review. It was for the Board to determine the appropriate weight to be given to the matters which were required to be taken into account in exercising its statutory powers.

It is clear that the decision of the Board was primarily based on the conviction of the respondent for offences which the Board regarded as serious.

Looking at the reasons of the Board in its totality together with the affidavit of the Chairman, we are unable to come to the conclusion that its decision was tainted with illegality or outrageous or that the decision was so unreasonable that no reasonable Board could ever have come to it.

For these reasons we allowed the appeal, vacated the Order of the Grand Court and restored the Order of the Immigration Board.



Zacca, P.

Georges, J.A.

Rowe, J.A.