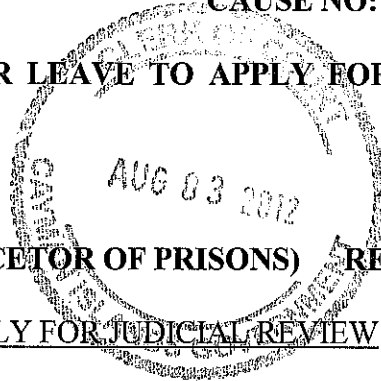


IN THE GRAND COURT OF THE CAYMAN ISLANDS

G0839

CAUSE NO: OF 2012

IN THE MATTER OF AN APPLICATION FOR LEAVE TO APPLY FOR JUDICIAL REVIEW PURSUANT TO GCR 0.53, r.3



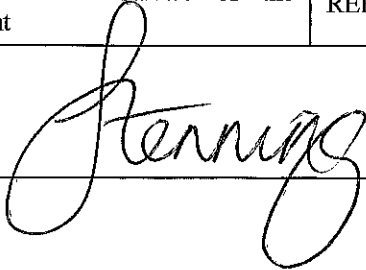
BETWEEN: MARICELLE MANAHAN

APPLICANT

AND: REGINA (ON BEHALF OF THE DIRECTOR OF PRISONS)

RESPONDENT

APPLICATION FOR LEAVE TO APPLY FOR JUDICIAL REVIEW

To the Clerk of the Court, Law Courts, George Town, Grand Cayman	
Name, address and description of Applicant(s)	Mr Maricelle Manahan, HMP Northward, Grand Cayman.
Judgment, order, decision or other proceeding in respect of which relief is sought	Decision of the Director of Prisons made on the 10 <sup>th</sup> May 2012 finding the Applicant as being not suitable for consideration of being granted parole.
<b>Relief Sought</b>	
<ol style="list-style-type: none"> <li>1. An order <i>Centiorari</i> quashing the decision reached by the Director of Prisons made on 10<sup>th</sup> May 2012 that the Applicant is not to be considered for parole until he has served 5/9 of his sentence.</li> <li>2. A <i>Declaration</i> that the Director of Prison's decision of the 10<sup>th</sup> May 2012 that the Applicant is unsuitable for parole was reached unlawfully, and was <i>ultra vires</i>;</li> <li>3. An order of <i>Mandamus</i> that the Director of Prison determine the Applicant's suitability for parole with reference to the appropriate legislative provisions under which the Applicant was sentenced on the 9<sup>th</sup> August 2007;</li> <li>4. Damages pursuant to O.53, r.7 for unlawful imprisonment through the failure of the Director of Prisons to observe and protect the statutory and common law rights of the Applicant.</li> <li>5. Such further, consequential or other relief that this Honourable Court determines is just; and</li> <li>6. Costs</li> </ol>	
Name and address of Applicant's attorneys, or, if no attorneys acting, the address for service of the Applicant	Stenning & Associates, F&J Centre, Unit #8, Mary Street, George Town, Grand Cayman. REF: JS/MW/1060/002
Signed 	Dated 3rd August 2012

### **The Applicant**

1. The Applicant is a 32 year old male who was sentenced on the 9<sup>th</sup> August 2012 for the following offences that are alleged to have been committed on 2<sup>nd</sup> June 2004;
  - a) Possession of an Unlicensed Firearm (marlin .22 rifle) contrary to Section 15(2) of the Firearms Law (1998 Revision);
  - b) Possession of an Unlicensed Firearm (ammunition – 3 .22 rounds and a magazine containing 3 rounds) contrary to Section 15(1) of the Firearms Law (2008 Revision).

The Applicant is currently serving a 10 year sentence in HMP Northward at the time of this application for judicial review.

### **Decision in respect of which relief is sought**

2. Relief is sought in relation to a decision of the Director of Prisons made on the 10th May 2012, which found the Applicant not to be eligible to be granted parole.

### **Relief Sought**

3. An order of *Centiorari* quashing the decision of the Director of Prisons that the Applicant is not qualify or is otherwise unsuitable for parole.
4. An order of *Mandamus* directing the Director of Prisons to admit the Applicant to rehear his application for parole, in pursuance of the legitimate expectation that the decision making process shall be based on the criteria of the Firearms Law (1998 Revision);
5. An order for damages to be paid by the Director of Prisons, pursuant to O.53, r.7 of the Grand Court Rules, in respect for the unlawful imprisonment of the Applicant since his already past earliest release date, that being after 1/3 of his 10 year sentence having been served by the same.
6. An order for Damages , pursuant to O.53, r.7 of the Grand Court Rules, to compensate the applicant for the Director of Prison's failure to review the Applicant's eligibility for parole at the appropriate time or at all in accordance with the Applicant's legitimate expectation that his statutory and common law rights for such a review would be observed by the Director of Prisons;
7. Such further, consequential or other relief that this Honourable Court determines is just; and
8. Costs

### Grounds for Judicial Review

9. The decision of the Director of Prisons of the 10th May 2012 finding the Applicant not eligible and/or suitable for parole was unreasonable, illegal and procedural improperly determined.

### Procedural Impropriety and/or illegality

10. The Director of Prisons, in making the decision to refuse the Applicant parole on the 10<sup>th</sup> May 2012, took into consideration the Applicant's eligibility under the Firearms Law (1998 Revision) pursuant to which his sentence was determined and in doing so acted *ultra vires* of the law.
11. The Director of Prisons acted in breach of the principals of natural justice in that the Applicant had a legitimate expectation that the Director of Prisons should have determine him as 'eligible' in accordance to the laws applicable for which dictated his original sentence.

### Unreasonable Decision / Unfair hearing

12. The Applicant was denied a 'fair hearing'. The Applicant was entitled to be told the criteria of refusal of parole by the Director of Prisons.
13. The Applicant was denied the opportunity to make oral submissions through Counsel or in person to the Director of Prisons as to his eligibility and suitability for parole so denying him a fair hearing.
14. As Counsel for the Applicant is making an *ex-parte* application, which requires full and frank disclosure of points that go for and against leave for judicial review being granted, Counsel being mindful of his duties, as identified in Cable & Wireless (Cayman) Ltd v. The ICTA, seeks an oral hearing so as to ensure compliance with the same.

  
Stenning & Associates, Attorneys for the Applicant