

Application for Leave to Apply for Judicial Review (0.53, r.3)

AUG 22 2013

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: *G0291* OF 2013

IN THE MATTER OF THE IMMIGRATION LAW (2012 REVISION)

AND: IN THE MATTER OF SECTION 14(2)(B) OF THE IMMIGRATION LAW (2012 REVISION) for a Declaration against the refusal of the Chief Immigration Officer to extend authority of Wally Anthony Kelly to remain in the Cayman Islands

AND: IN THE MATTER OF THE CAYMAN ISLANDS CONSTITUTION ORDER 2009 pursuant to Order 77A Rule 4 for a Declaration TO PROHIBIT THE EXPULSION FROM THE Cayman Islands and Damages for Discrimination

AND: IN THE MATTER OF SECTION 14(1) OF THE CAYMAN ISLANDS CONSTITUTION ORDER 2009

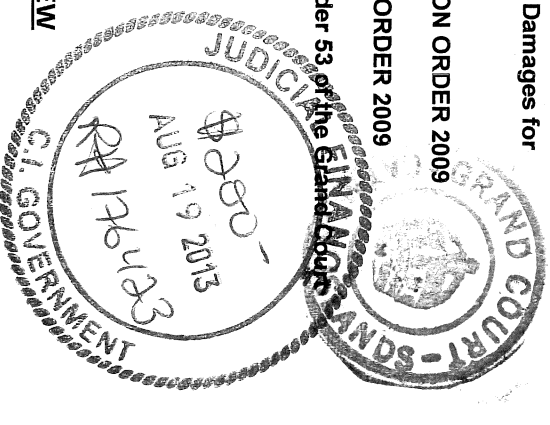
AND: IN THE MATTER OF SECTION 24 OF THE CAYMAN ISLANDS CONSTITUTION ORDER 2009

AND IN THE MATTER OF AN APPLICATION FOR JUDICIAL REVIEW pursuant to order 53 of the Grand Court Rules

BETWEEN: WALLY ANTHONY KELLY APPLICANT

AND: CHIEF IMMIGRATION OFFICER 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 applicants	Wally Anthony Kelly, Building B-3, Trinity Square, Eastern Ave., George Town, Grand Cayman
Judgment, order, decision or Other proceeding in respect of which relief is sought.	Decision of Deputy Chief Immigration Officer Bruce Smith and Customer Liaison Officer Roseta Brown-Moore, denying the Applicant a further extension of authority to remain within the Cayman Islands, and demanding that he depart immediately following midnight Friday August 16, he being the Spouse of a Caymanian, and having requested the said extension, in order that he may complete the formalities associated with completing an application for Caymanian Status, based upon his marriage to a Caymanian.

Relief Sought

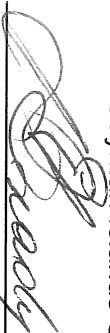
1. An Order of Mandamus under the provisions contained in GCR 77A, and Order 53 GCR, directing and prohibiting the Respondent, whether by his/her servants, agents, or any Immigration Officer, or howsoever otherwise, to refrain from any and all actions designed to cause or effect the removal of the Applicant from the Cayman Islands and more particularly any and all actions pursuant to section 13(2) and 13(2)(a-c) of the Cayman Islands Constitution Order 2009, unless and or until the protections afforded to the Applicant, under the provisions contained in section 13(2)(d)(iii) and 13(3)(a)-d) of the said Order are observed, and this Judicial Review Application is determined.
2. A Declaration that the Respondent whether by his/her servants, agents or any Immigration Officer, or howsoever otherwise, be restrained and prohibited from any and all actions, the objective of which is the detention of the Applicant, under any provision of the Immigration Law 2012 Revision, unless and or until this Judicial Review application is determined.
3. Costs and
4. Such further consequential, or other relief as this Honourable Court seems just

Name and address of applicant's attorneys, or, if no attorneys acting, the address for service of the applicant	Dennis E Brady Attorney-at-Law Building B-3, Trinity Square, Eastern Ave., George Town, Grand Cayman KY1-1009
Signed 	Dated 30 th Aug st 2013

GROUNDS ON WHICH RELIEF IS SOUGHT

1. **Wednesbury unreasonable:** The decision of the respondent is Wednesbury unreasonable when they concluded that the Applicant did not qualify for an extension of his authority to remain in the Cayman Islands, there being absent from the exercise of the discretion to decide in such matters, no objective assessment thereby rendering the decision as being unreasonable or alternatively tainted by irrationality or illegality.

2. That the exercise of this decision flies in the face of a letter dated November 21 2008 from the Office of the Complaints Commissioner, which letter referred to the involvement of the said Deputy Chief Immigration Officer Bruce Smith and other senior Immigration Officers who were connected with and or instrumental in the beating and expulsion from the Cayman Islands of the Applicant, and which letter instructed the Department of Immigration to stand the cost of the Applicant's return to the Cayman Islands, and the Applicant is of the opinion that the latest involvement of DCIO Bruce Smith, in unreasonable requiring his departure, is clearly a demonstration of bias, prejudice and is discriminatory; in violation of the provisions contained in sections 16 and 24 of the Cayman Islands Constitution Order 2009.



DENNIS E BRADY Attorney-at-Law

FOR THE APPLICANT

Dated: 20.5.13

THIS EX PARTE APPLICATION FOR LEAVE TO APPLY FOR JUDICIAL REVIEW is filed by Dennis Brady, Attorney-at-Law, Building B-3, Trinity Square, Eastern Avenue, George Town, Grand Cayman KY1-1009, Attorney for the Applicant whose address for service is that of his said Attorney-at-Law.