

IN THE GRAND COURT OF THE CAYMAN ISLANDS

374  
CAUSE NO. OF 2013

IN THE MATTER OF THE BILL OF RIGHTS

AND

IN THE MATTER OF THE GRAND COURT RULES ORDER 77A

\_\_\_\_\_  
PETITION  
\_\_\_\_\_



**TO: HER MAJESTY'S GRAND COURT OF THE CAYMAN ISLANDS**

The Humble Petition of and on behalf of Tareek Ricketts, of HMP Northward, Grand Cayman

**SHOWETH** as follows: -

1. The Petitioner, on 17 August 2013, following a trial before Mr Justice Henderson sitting with a Jury in the Grand Court was convicted of murder and possession of a firearm.
2. The Petitioner was sentenced to life imprisonment for the murder.
3. It is not in dispute that the sentence was passed in accordance with s182 of the Penal Code (2010 revision).
4. The Penal Code (2010 Revision) ("the Law") provides that:  
*s182. Any person convicted of murder shall be sentenced to imprisonment for life.*
5. There is no mechanism under this section for early release or review nor is any mandatory review provided for elsewhere. The sentence therefore constitutes a 'whole life order.'

6. The practice of imposing whole life orders under the law of the United Kingdom was recently challenged before the European Court of Human Rights as being incompatible with Article 3 of the European Convention of Human Rights ('the Convention') which reads:

*No one shall be subjected to torture or to inhuman or degrading treatment or punishment.*

7. The Court ruled that to be compatible with Article 3, a sentence of life imprisonment must be subject to the possibility of a review and the possibility of release. The relevant practice of the United Kingdom was a violation of Article 3. (*Vinter, Bamber & Moore v United Kingdom* 34 BHRC 605).

8. Schedule 2 of the Constitution of the Cayman Islands Part 1; The Bill of Rights, Freedoms and Responsibilities ("The Bill of Rights") stipulates in Article 3:

*No person shall be subjected to torture or inhuman or degrading treatment or punishment.*

9. The Bill of Rights is directly analogous to Article 3 of the Convention. It is therefore submitted that the reasoning of the European Court accordingly is properly to be applied to questions regarding the application of Article 3 of the Bill of Rights.

9. It follows that on a literal interpretation section 182 the Law is incompatible with the Petitioner's Right not to suffer inhuman or degrading treatment or punishment as enshrined in Article 3 of the Bill of Rights.

10. On such a reading the sentence breached that right and constitutes a violation of Article 3.

11. Article 25 of the Bill of Rights provides that,

*'in any case where the compatibility of primary or subordinate legislation with the bill of rights is unclear or ambiguous, such legislation must, so far as it is possible to do so, be read and given effect in a way which is compatible with the rights set out in this part.'*

12. This affords scope to the Court to apply section 182 in a manner consistent with the Petitioner's constitutional rights. Such an interpretation accords with an underlying coherence of principle in legislation. It is to be inferred in all provisions where not expressly excluded.

### **Orders Sought**

THE PETITIONER THEREFORE HUMBLY PRAYS as follows:

- (1) That section 182 of the Penal Code (2010 Revision) is read and given effect in a way which is compatible with Article 3 of the Bill of Rights
- (2) In the alternative a *declaration* pursuant to Article 23 of the Bill of Rights that Section 182 of The Penal Code (2010 Revision) is incompatible with the provisions of Article 3 of the Bill of Rights.
- (3) A *declaration* pursuant that the said sentence was unlawful and in violation of the Petitioner's Constitutional Right as guaranteed by Article 3 of the Bill of Rights.

**AND YOUR PETITIONER** will ever pray etc.

DATED this 30 October 2013.

  
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**FOR AND ON BEHALF OF  
THE PETITIONER**

Note: This Petition is intended to be served on the Attorney-General of the Cayman Islands. An Affidavit will be served in due course.

### **ENDORSEMENT**

This Petition, having been presented to the Grand Court of the Cayman Islands will be heard at the Grand Court of the Cayman Islands on:

DATE:

TIME:

(or as soon thereafter as the Petition can be heard).

This PETITION is filed by Samson and McGrath, Attorneys at Law for the Petitioner, whose address for service is 5<sup>th</sup> Floor Genesis Building, Genesis Close, PO Box 446, KY1-1106, Grand Cayman, Cayman Islands.